Supreme Court of the United States

OCTOBER TERM, 1963

No. 937

UNITED STATES, PETITIONER

vs.

ARNO SASCHA JAKOBSON

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

No. 28137

UNITED STATES OF AMERICA,
Appellee,

against

ARNO SASCHA JAKOBSON,
Defendant-Appellant.

APPENDIX TO APPELLANT'S BRIEF

(File Endorsement Omitted)

• • • •

[fol. 1]

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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62 CR 1037

THE UNITED STATES,

vs.

ARNO SASCHA JAKOBSON

---

* * * *

[fol. 2]

INDICTMENT—Filed November 26, 1962

The Grand Jury charges:

On or about the 8th day of December, 1960, in the Southern District of New York, Arno Sascha Jakobson, the defendant, being a registrant under the Universal Military Training and Service Act, Title 50 Appendix, United States Code, Section 451, *et seq.*, unlawfully and knowingly did fail, neglect and refuse to perform a duty required of him under and in execution of said Act and the rules and regulations and directions made pursuant [fol.3] thereto, to wit, to submit to induction at the time and place fixed in an Order to Report for Induction mailed him by his Selective Service System Local Board.

(Title 50, Appendix, United States Code, § 462; 32 Code of Federal Regulations, Section 1632.14.)

CARL M. SPERO,
Foreman.

/s/ Vincent L. Broderick,
VINCENT L. BRODERICK,
United States Attorney.

ENDORSEMENTS ON INDICTMENT

* * * *

INDICTMENT

Viol. T. 50, App., U. S. C. § 462, 32 Code of Federal Regulations, § 1632.14.

VINCENT L. BRODERICK,
United States Attorney.

A TRUE BILL
CARL M. SPERO,
Foreman.

[fols. 4-6] * * *

[fol. 7]

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

62 Cr. 1037

Before:

HON. EDMUND L. PALMIERI, *District Judge.*

New York, February 11, 1963,
10 o'clock a.m.

Appearances:

ROBERT M. MORGENTHAU, Esq., United States Attorney, for the Government, by EZRA H. FRIEDMAN, Esq., Assistant United States Attorney.

HERMAN ADLERSTEIN, Esq., Attorney for Defendant.

TRANSCRIPT OF TESTIMONY

* * * *

[fols. 8-9] * * *

[fol. 10] COLLOQUY OF COURT AND COUNSEL

* * * *

STATEMENT BY ASSISTANT UNITED STATES ATTORNEY

There apparently is a dual holding by the Appeal Board, because one cannot tell from the Appeal Board record, which classified the defendant 1-A, as to which of two grounds suggested to it by the Department of Justice it was following. I do not know whether it was one or whether it was both.

* * * *

[fol. 11]

MOTION TO DISMISS INDICTMENT AND FOR ACQUITTAL AND RULING THEREON

Mr. Adlerstein: The defendant moves to dismiss the indictment and for acquittal of the defendant for the following reasons:

One. The classification of 1-A is without basis in fact:

(a) There was no evidence in the record against the conscientious objector claim;

(b) The Board wrongfully interpreted section 6(j) of the Draft Act in holding that the beliefs of the defendant were not religious training and belief under the statute.

In that connection I would like to refer the Court to the unreported case of United States v. Horst, which I would like to hand up in connection with my reply memorandum to the government's trial brief (handing to the Court).

Two. The recommendation of the Department of Justice to the Appeal Board, that the defendant was not opposed to participation in war in combatant or noncombatant military training and service by reason of his religious training and belief, but that his claim was based upon a personal moral code, was erroneous, as a matter of law, and this voids the classification of the defendant. A reading of the file shows defendant's beliefs were religious training and belief within the Act. The defendant based his conscientious objection to war upon belief in a Supreme Being, and that was all the Act required.

(a) The additional recommendation that the defendant was not sincere in his conscientious objector claim gave the Appeal Board an alternative ground for classifi-
[fol. 12] cation. Since the Appeal Board did not indicate on which ground it made the classification, the classification cannot stand in the face of the erroneous recommendation;

(b) There was another further erroneous statement in the recommendation that the defendant made his conscientious objector claim on the day he received notification of acceptance by the military. This was wrong

because the defendant made his conscientious objector claim about one month after receiving notice of acceptance. The Department of Justice tried to impress the Appeal Board that the defendant was trying to evade service by holding ready an alternative claim to be filed at once when he got his 1-A. This was prejudicial.

Three. The Department of Justice made an erroneous recommendation to the Appeal Board that the defendant was insincere in his claim. It based the recommendation on the defendant's statement that he had not given much consideration to his conscientious objector views until he passed his physical, and until then he had frankly hoped he would be classified 4-F.

The record shows defendant made a claim for physical disqualification in form 100, the classification questionnaire, series 15, because of a back injury. The Army medical examination shows defendant had a condition called spina bifida, and also kyphosis. The former is a serious condition. The Army medical report referred to two reports of private physicians dealing with the defendant's claim and condition.

Under the law, if registrant's claim is honest and made in good faith, he may make as many successive claims for deferment as he has. The fact of the defendant having made the claim for a physical disqualification and then for a conscientious objector classification should not give any grounds for suspicion of an attempt to evade [fol. 13] service, because the two claims were made in good faith and were honest.

The Court: You are not now pressing the medical claim, are you?

Mr. Adlerstein: I am trying to show your Honor that the claim was made in good faith, and that there was an improper recommendation that the claim was not made in good faith. I am trying to show it was a wrongful recommendation made by the hearing officer and the Department of Justice.

The Court: What is the relevance of the medical findings so far as the issues in this case are concerned?

Mr. Adlerstein: I am trying to show that the claim was not insincere. The Department of Justice said it was an

insincere claim because he had hoped to get a disqualification: I am trying to show that, even though he hoped to get a disqualification, he had a right to do that because he had made a sincere claim for a back condition even though the Army did later on accept him; that his claim was made in good faith and the record shows it, and therefore they had no ground for a finding of insincerity on his part.

The Court: I see.

Mr. Adlerstein: The findings of insincerity were based on suspicion. The Local Board has seen and heard the registrant, and found him sincere. The entire record shows the defendant's sincerity. Any other finding is based upon suspicion.

The fourth and last ground. The defendant was denied due process of law when he asked a clerk of the Local Board what the qualifications were for a conscientious objector status. The clerk informed him that one must have a long background of conscientious objection and get references from clergymen. This delayed the defendant in making his claim until after he passed his [fol. 14] physical examination, and caused the hearing officer to report that the defendant was insincere in making his conscientious objector claim on the ground it was made after the physical examination was passed, and these are my grounds for dismissal and acquittal of the defendant.

I have submitted a trial memorandum in reply and hope your Honor will read the cases in connection with that.

The Court: I reserve decision on your motion.

Mr. Adlerstein: I would like to put the defendant on the stand and ask him some questions, your Honor.

The Court: All right.

ARNO SASCHA JAKOBSON, the defendant, called as a witness in his own behalf, being first duly sworn, testified as follows:

Direct examination by Mr. Adlerstein:

Q. Mr. Jakobson, how old were you when you filed your classification questionnaire?

Mr. Friedman: Objection, your Honor. I believe the file is in evidence with evidence of his date of birth and all the other relevant—

The Court: For the purpose of saving time I suppose he might just as well state it. Overruled.

A. I was 18 years old.

Q. Did you at that time have a back condition? A. I did.

Mr. Friedman: Objection, your Honor. This is also in the record, and I might state at this time [fol. 15] that there is no claim made by anyone throughout the entire Selective Service proceeding that the claim of a back ailment was a phony one or that it was in any way untrue.

The thrust of the decision was that the defendant, although he knew how to make a claim on one ground, has failed or neglected to make the more important conscientious objector claim. There is no hint in the record that anyone suspected the defendant of claiming a back ailment that he did not have.

The Court: Do you disagree with your adversary to the effect that this is relevant on the question of good faith?

Mr. Friedman: In more ways than one, yes, sir. Absolutely.

The Court: Let me hear your position first on the good faith basis, and then on the other ways in which you think it is irrelevant.

Mr. Friedman: I think if your Honor reads the record you will find that there is no implication by anyone passing on his claim that he made a false claim for exemption by reason of physical disability. It just isn't so. What they are saying is, here is a man who knew how, when he had a claim with some basis in it, to make it. He brought in doctors' certificates, he pressed it from the time when he was eighteen, and he filed his original papers all the way through to the end. Each time he went to the examining station he brought it to the medical examiner's attention once again.

The question is the sincerity of his conscientious objector claim, which is, on the one hand, claimed to be of long standing, and here he sits back and waits four and a half years to make it, and it is [fol. 16] the comparison of his pressing one claim and not pressing the other. There is no implication whatsoever, as I read the record, that they are accusing him of making a bad-faith disability claim, and therefore carrying that over and saying therefore his claim for exemption is in bad faith as well.

As I say, this is the way I read the record, and I speak, I believe, for the government on this. I just do not find anything whatsoever in the record that would indicate that that was the thinking. The thinking is that he sat back and he did not make claim for conscientious objection, which, if we take his view as expressed in the record, should have been uppermost in his mind and should have been pressed more strongly.

The Court: This record has been presented to me for the first time this morning, and I am not familiar with it. I will give you a continuing objection to this line of questioning and I will reserve to you the right to move to strike out any of this testimony.

Mr. Friedman: I would say further in a broader sense, your Honor, that the sincerity is not an issue which is open to your Honor because you are reviewing proceedings before a board or a system, an agency, and their findings are conclusive even though, your Honor, you or I or anyone else might disagree with them.

There is a very narrow scope of review on the factual issue, and it must be clearly and absolutely arbitrary and capricious, and the fact that you and I, in weighing the evidence, might come to a contrary conclusion just does not help. The sincerity aspect is closed by the Board finally, unless it is absolutely without basis in fact.

[fol. 17] The Court: I take it your position is there was no basis in fact for the Board's finding; is that right?

Mr. Adlerstein: I do make that claim, in addition to erroneous interpretation of the statute, and also I would like to call your Honor's attention to page 3 of the Department of Justice recommendation at the bottom of the page.

The Court: What exhibit is that?

Mr. Adlerstein: Government's Exhibit 40, I think.

The Court: I have it.

Mr. Adlerstein: At the bottom of page 3, this is a recommendation of the Department of Justice to the Appeal Board, and the report is that the registrant told the hearing officer that he had delayed filing his form 150 because he had not given much consideration to his views on conscientious objection or thought them through until he had passed his physical examination, and that until then had "frankly hoped I would be a 4-F." Your Honor will note that that is quoted, "frankly hoped." He follows this up with a statement on page 4 that the registrant was not sincere in his claim.

So that the record does show that his physical disqualification was made a ground of insincerity and that is the reason I am trying to show that he had an honest claim in presenting his physical disqualifications.

Mr. Friedman: If that is the case, I can cut things short. We will concede that there was an honest claim. I just read that entire section that has been read to your Honor entirely different.

The Court: Yes. All right. I will take this into consideration, but in view of my lack of familiarity with the record I prefer to give the
[fol. 18] defendant as much breadth of opportunity to testify as possible and permit you to move to strike out, if necessary.

Mr. Adlerstein: In connection with that I would like to say that I have cited cases in my trial memorandum to show that a registrant can make as many successive claims as he has as long as they

are honest claims and that this should raise no grounds for suspicion. That is a question of law and not a question of basis in fact.

By Mr. Adlerstein:

Q. Mr. Jakobson, before you went for your physical exaamination in February, 1958, did you concult with the clerk of the Local Board? A. Yes, I did.

Q. How long before that time did you consult with the clerk? A. Approximately six months before that time.

Q. Will you tell the Court what was the substance of your conversation.

Mr. Friedman: Objection, your Honor. This, too, appears in the record in the course of the registrant's reply to the Department of Justice recommendation which he filed with the Appeal Board.

The question of what the clerk may have told him, what effect it may have had on his behavior, and what inferences might be drawn from his behavior, was before the Appeal Board and was passed on by them and when it comes to a question of weighing inferences, that function is for the Appeal Board and not for the Court.

The Court: Isn't that so? This would be superseded by the record before the Appeal Board, and he is in no position now to amplify or modify that record, is he?

[fol. 19] Mr. Adlerstein: We are not trying to modify the record. I am just trying to bring out the entire conversation. I just want to say this, your Honor: He is not an attorney and—

The Court: I realize that. He has had an administrative hearing and adjudication. You are attacking the validity of that administrative adjudication. At this point have you the right to amplify or supplement the basis upon which the administrative agency acted? The United States Attorney is objecting because you are apparently seeking to do just that.

Mr. Adlerstein: As I said, this man, not being an attorney, did not know how to express him-

self completely in the reply to the recommendation, and I just want to clarify it for the record.

The Court: Clarify it for what record? There is only one record before me at this point which is of significance, and that is the record that was made through to the Appeal Board which rejected his claim.

If you will point out to me the exhibit which you have special reference to, I can better understand what you are trying to do. My disposition is not to allow you to do this.

Mr. Adlerstein: This is Exhibit 45, page 4, under subdivision 2.

The Court: Exhibit 45 is a long, typewritten statement filed by the defendant—

Mr. Adlerstein: I call your Honor's attention to page 4.

The Court: —in which he seeks to refute the position of the Department.

Mr. Adlerstein: These are under the regulations. He has a right to reply. This is his reply to the recommendation.

[fol. 20] The Court: Doesn't he stand on these any longer?

Mr. Adlerstein: Oh, yes, it is part of the file. We do stand on this.

The Court: What is the purpose of the present questioning?

Mr. Adlerstein: I do not think he has here the entire conversation he had with the clerk of the Board. He called the Appeal Board's attention to it, and I wanted to show the entire conversation that took place. It is a matter of due process of law, in my opinion, and that is why I want to have the record amplified and explain the entire situation.

The Court: Yes?

Mr. Friedman: Number one, your Honor, I feel that it was brought by this reference to the attention of the Appeal Board. If at this time the defendant is going to be allowed to go out and expand the conversation as to what happened, and so on and so

forth, he is putting evidence before you which was not before the Appeal Board; and, as I understand the law, the function of the Board is not to try these issues de novo. The registrant had an obligation to place his information before the Appeal Board and he did so.

Now he is coming back for a second shot saying, "Maybe I didn't do a good enough job," and I don't think he can do that before you. I do not think he can wait until the criminal prosecution to say that. The obligation of pressing a claim and of producing evidence to satisfy is upon the registrant, and the person he must satisfy is not the United States Attorney nor the United States Court, he must satisfy the Local Board; where there is an appeal the Appeal Board, and if there is an appeal to the Pres-
[fol. 21] ident, which there was not in this case, then the Presidential Appeal Board.

We are just going in and trying to introduce more evidence which should have been brought before them, which might have weighed before them or might not have weighed before them. We are being asked at this time to hear the case de novo.

The Court: I notice that in this Exhibit 45 defendant does charge the clerk with having misinformed him and having insufficiently informed him. However, I prefer to take his testimony rather than to reject it, because my lack of thorough familiarity with the record places me at a disadvantage.

You can move to strike out, and I will reserve decision on your motions later.

All right. Read the pending question.

(Question read.)

A. May I answer?

Q. Yes. A. I told Mrs. Cobbs that I had come there to ask her to explain to me the nature of the conscientious law, especially with regard to the religious qualification, as I was opposed to participation in the military.

She replied that in order to qualify for conscientious objector classification one has to belong to one of several accepted pacifist religions, and one has to submit proof to

the Local Board that one has belonged to such a religion for a long period of time, say, from the age of three, was her words, and that this proof was to consist of letters from ministers and so forth.

Q. Did you accept the clerk's word on that? A. Yes, I did.

Mr. Friedman: Your Honor, as I understand your instructions, you do not want to hear any objections from me?

[fol. 22] The Court: You have a continuing objection to this whole line of questioning, and you may move later to strike out.

Q. Was it later that you made inquiry of some group as to whether you had a valid claim? A. Yes, I did.

Q. When did you make that inquiry? A. Shortly after the physical examination, at the offices of the American Friends Service Committee. They informed me that there were no such restrictions as to the law regarding the religious qualification, and that I had a possibility for making a valid claim on this point.

Q. You submitted a 43-page statement, apparently, on your religious beliefs to the Local Board in connection with the claim for conscientious objection. That statement refers to a reading of Sorokin, who refers to the Sermon on the Mount. In connection with that reading, did you also read the Sermon on the Mount? A. Yes.

Mr. Friedman: Objection, your Honor.

The Court: Overruled.

Q. In the same 43-page statement you preferred to the Book of Joshua. Had you read that? A. Yes, I did.

Q. Had you read other parts of the Old Testament as well? A. Yes, I did.

Mr. Adlerstein: That is all.

Mr. Friedman: I have no questions of the registrant, your Honor.

In view of the government's position that his entire testimony is irrelevant and immaterial to the issues, accordingly, I would move to strike.

[fol. 23] COLLOQUY OF COURT AND COUNSEL

Mr. Adlerstein: I would like to say this in that connection, your Honor: I am raising the question of due process of law, and that I would like to call the Court's attention to the decision in Simmons v. United States, in 348 U. S., that a registrant not represented by counsel is not to be treated as if he were engaged in litigation represented by counsel, and I think the Court is more lenient when it comes to a question of due process as to not requiring a defendant to know all the procedures under the law.

The Court: On what basis do you attack due process in this case?

Mr. Adlerstein: I said on the basis of the erroneous information given by the clerk of the Local Board to the registrant which finally culminated in his being charged with insincerity, because he made a late claim. The improper information caused the claim to be made at the time it was, and that was after he had passed his physical examination.

The Court: You concede, do you not, that when he was before the Appeal Board he placed all of the facts before them? He did not withhold any relevant facts at that time, and that he was not acting at that time under any misapprehension?

Mr. Adlerstein: I do not think he was, your Honor.

The Court: Isn't that the test as to whether he was deprived of due process before the Appeal Board, which has the ultimate legislative mandate to make decisions in these matters?

Mr. Adlerstein: They pass on the question of fact. I do not think they pass on questions of law. I think it is for the courts to pass on the question of whether he was deprived of due process.

The Court: Yes, of course, they do not pass on whether he got due process, that is our job, but I would like to [fol.24] know what it was that occurred before the Board which, in your opinion, vitiated its proceedings because of lack of due process. At that time he knew all the facts, he presented all the facts to the Board, did he not? He

was not then laboring under any mistake or misapprehension; isn't that so?

Mr. Adlerstein: He did present his claim eventually, but the fact of his presenting it at a later time, when he would have presented it, or than he would have presented it, caused a charge of insincerity to be made by the hearing officer and Department of Justice. The erroneous information caused that charge of insincerity to be made.

I have expanded on that in my trial memorandum, and I am pretty sure your Honor will see the point that I am trying to make by reading that and the cases which I cite along with it. I do not say we were denied any procedures, but I do say that the wrong information caused a substantial harm to be done.

The Court: You say because of the misapprehension he might have acted in a way which would not have given the impression of insincerity?

Mr. Adlerstein: That is right.

The Court: He might have acted in a way which might have given an impression of sincerity?

Mr. Adlerstein: That is right.

The Court: That does not dispose of the conclusion of the Appeal Board, does it? Because they did find on an independent ground, did they not, that his refusal to be inducted was not well taken.

Mr. Adlerstein: That was not well taken, your Honor.

The Court: That his refusal to be inducted was not well taken or that his claim of conscientious objection was not well taken?

[fol. 25] Mr. Adlerstein: The Appeal Board had alternative grounds to decide the case on and did not indicate on which ground they decided. It was a question of insincerity and also a question of lack of religious training and belief.

The Court: In other words, they felt that there was an insufficiency of proof to indicate, to their satisfaction, that he was in fact a conscientious objector; isn't that what they concluded?

Mr. Adlerstein: I think they misinterpreted the law.

The Court: I am trying to find not what you think they did was wrong at this point. I am trying to find out what in fact they did.

Now, they rested their conclusion on a dual ground. One is insincerity, and you have spoken about that. The other, as I understand it, was a lack of proof that he was in fact a conscientious objector. Isn't that so?

Mr. Adlerstein: It is very difficult to say that, your Honor. A person can be deemed to be not a conscientious objector for lack of submission of proof, but also because of a wrongful interpretation of the law. He may have sufficient proof but, by wrongful interpretation of the law and application of the law to the facts, they might make an erroneous decision, and I say that this is the thing it came under, the erroneous decision, by erroneous interpretation of the law.

The Court: What exhibit is the decision of the Appeal Board? What exhibit is the decision?

Mr. Friedman: Your Honor, the Appeal Board does not have a memorandum of decision. What it has is just its order, which will appear—

Mr. Adlerstein: I think it is 46.

Mr. Friedman: 46. It is a single-page sheet of paper, an SS form 120.

[fol. 26] The Court: You gentlemen have talked at considerable length of the dual ground upon which this decision was based, and there must be some basis upon which you have made these arguments. Where does it appear that the Board rested on the dual ground?

Mr. Adlerstein: There is nothing to show what it rested on. It merely made a classification after the recommendation, but the recommendation of the Department of Justice, which preceded the classification of the Appeal Board, stated a dual ground.

The Court: Where is that? What exhibit is that?

Mr. Friedman: Exhibit 45. I believe your Honor had that before him.

Mr. Adlerstein: Exhibit 43.

Mr. Friedman: 43 or 45?

Mr. Adlerstein: 43.

Mr. Friedman: No, 45.

Mr. Adlerstein: Your Honor, that is Exhibit 40. That is the recommendation. If your Honor will look at page 4 of that exhibit, it states two grounds.

The Court: Yes, I have read this. What is it that you say in connection with that exhibit?

Mr. Adlerstein: In connection with that, there were two grounds for denial of the classification recommended by the Department of Justice. The Appeal Board made the classification without referring to which ground it decided upon.

If the recommendation as to the denial on the ground of lack of religious training and belief is erroneous, then the entire classification must fall. I cited cases in my trial memorandum on that point.

Since the Appeal Board did not decide the ground, it cannot be assumed on which ground they made their classification. Therefore, the classification is void, since [fol. 27] we contend that there was an erroneous interpretation of the statute as to the meaning of religious training and belief.

The Court: What is your answer to that argument, Mr. Friedman?

Mr. Friedman: Do I understand your Honor's question as being directed to what happens if your Honor should find that there was an erroneous interpretation of law? Is that it?

The Court: No. I found nothing and I have decided nothing. Your adversary has just made an argument with respect to an exhibit and I do not want to repeat his argument. I assume you heard it, I would like to know what your answer is to that argument.

Mr. Friedman: As I understood it is directed to the question of the dual finding, what we have been calling the dual finding, by the Appeal Board based upon the Department of Justice recommendation.

I am inclined to agree with defense counsel that should your Honor ultimately arrive at the conclusion that the Board interpreted the law incorrectly, that he would disregard the sincerity or lack of sincerity finding and would reverse, because it is not clear on which ground the Appeal Board rested.

I think, however, that your Honor will come to the conclusion that, if it is a question of law as to whether this was a religious claim, the Board's decision was correct

and that, as a matter of fact, it was not a legal conclusion that was reached by the Department or by the Appeal Board in holding this to be a personal moral code or philosophy but a factual determination, in which case the same restrictive scope of review comes into play.

But if it should be your Honor's ultimate determination that this was a legal conclusion by the Appeal Board, that this was not a religious claim—by "legal" I mean a [fol. 28] judicial determination, a construction and interpretation of the statute—that this was not a religious claim, and if your Honor arrives at a contrary conclusion, I think the finding of the Board would have to be reversed. I am not certain that I have answered your question.

The Court: If a difficulty in this case arises from the fact that we do not know on which ground the Board rested, why couldn't the case be sent back to them for the purpose of clarifying their decision?

Mr. Friedman: I think the government's position has to be that the Board's decision as it stands was correct and entitles it to a verdict of guilty. If, on the other hand, there is a fatal defect in the decision as it stands, then the defendant is entitled to his acquittal.

Mr. Adlerstein: I have cited a case in my trial memorandum which says that the case would not go back, but that it should be sent back de novo for the reason that it might be impossible for the Appeal Board at this time to give its reason for that decision.

Mr. Friedman: If the Court finds that the order was valid, then the defendant's refusal to submit was a criminal act. If, on the other hand, the Court cannot find beyond a reasonable doubt that it was a valid order, then the defendant is entitled to his acquittal.

I think both counsel will agree that the vagueness of the decision without specifying grounds puts the Court in somewhat of a predicament. I think, however, that the government's arguments set forth in the memoranda will show that the Board's order, resting on either ground or both grounds, was a valid one.

The Court: Does either side wish to introduce any further evidence? Do you wish to cross-examine the defendant?

Mr. Friedman: No, your Honor. I feel that the defendant's testimony was immaterial to the issues in this [fol. 29] case, and I would move to strike it, and I do not wish to cross-examine the defendant.

The Court: I will reserve decision.

RENEWAL OF MOTION TO DISMISS INDICTMENT—DECISION RESERVED

Mr. Adlerstein: The defendant rests and renews the motion made at the end of the government's case to acquit the defendant.

The Court: I reserve decision.

Will you gentlemen wait for just a minute? I may have some questions to ask you about this voluminous record that I would like to look at hurriedly during the recess, and I will talk to you.

(Short recess.)

The Court: Gentlemen, I will require some more time to study these papers and I will, therefore, adhere to my decision to reserve decision. But I would like to ask one or two questions about these proceedings of defense counsel.

Do I understand correctly that at one point the defendant was classified for non-combatant service and that he appealed from that decision?

Mr. Adlerstein: That is correct.

The Court: Do you dissent from the view that the function of the District Court in these cases is not to make a finding de novo, but to inquire as to whether there is valid evidence to sustain the conclusion of the Appeal Board?

Mr. Adlerstein: I think that is a correct statement. The Court cannot classify. The Court merely decides whether or not the classification is valid.

The Court: And the classification cannot be overturned where the Court finds that it has some basis in fact, isn't that the law?

Mr. Adlerstein: If the Court finds there is basis in fact, then the classification must stand, unless it finds also some error of law which might set aside the classification.

[fol. 30] The Court: Do you concede that the defendant was furnished a resume of the Federal Bureau of Investigation report prior to the hearing?

Mr. Adlerstein: Yes, we were furnished that report.

The Court: Do you concede that he was also furnished with a copy of the Department of Justice's recommendation and afforded an opportunity to reply before the decision of the Appeal Board.

Mr. Adlerstein: That is conceded.

The Court: All right, gentlemen. Thank you very much. I will reserve decision.

Mr. Adlerstein: Would your Honor continue the defendant on his own recognizance?

The Court: Yes.

Mr. Friedman: No objection.

Mr. Adlerstein: Thank you.

* * * *

New York, February 26, 1963,

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[fols. 31-33] * * *

[fol. 34] COLLOQUY OF COURT AND COUNSEL

* * * *

The Court: You mean they could not recognize him as a conscientious objector because he did not come within the terms of law which say: You have to belong to a sect. He has his own personal philosophy. He could not comply with the provisions of the law as it now stands.

* * * *

Mr. Adlerstein: Actually, he was given the noncombatant classification from which he appealed. He was appealing for the I-O instead of I-A-O classification.

The Court: And he did not want that?

Mr. Adlerstein: No, he refused to take it.

The Court: Would he be willing to accept that now?

Mr. Adlerstein: As a matter of principle, I do not see how he could.

The Court: Do you agree with his principles, or are you just trying to explain that he has got to continue to be adamant in this subject.

[fol. 35] Mr. Adlerstein: I do not think that is the question, your Honor. I do not think he is trying to be adamant. I think if a man has a principle he should stand by it.

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[fols. 36-41] * * *

[fol. 42]

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

OPINION OF PALMIERI, J.—February 21, 1963

In December of 1960, defendant Arno Sascha Jakobson, claiming to be a conscientious objector, refused to submit to induction into the armed forces and was indicted by the Government under Section 12 of the Universal Military Training and Service Act.[1] Defendant pleaded not guilty, and having waived trial by jury, was tried before this Court. The record established that defendant first registered with his draft board in 1953 at the age of eighteen. He made no claim to exemption as a conscientious objector, but did note certain physical infirmities on his Selective Service classification form that, in his opinion, would disqualify him from military service. After receiving several students deferments, he was classified I-A in 1956.

In February of 1958, defendant was ordered to report for a physical examination and was notified the following month of his passage of the examination. Shortly thereafter, and for the first time, he applied as a conscientious objector for exemption from combatant service (I-A-O). When he appeared before the Local Board in December of 1958 for a hearing on this application, he advised the Board that he could not accept a I-A-O classification and requested exemption from both com-

[1] 50 U. S. C. App. § 462.

batant and non-combatant service (I-O). The Board did not believe that defendant's beliefs were based upon religious training and belief, as required by the statute for such exemption, and denied the I-O classification. The Board did, however, grant defendant an exemption from combatant service.

Defendant appealed this decision to the Appeal Board. That Board took the preliminary view, in agreement with [fol. 43] the Local Board, that there was no merit to defendant's claim for deferment based on "religious training or belief" and forwarded defendant's file to the Department of Justice for an advisory recommendation. As part of this procedure, a background investigation was conducted by the FBI and defendant was accorded a further hearing before a Hearing Officer, who later reported his conclusions that defendant's claim was based upon a personal moral code rather than religious training and belief, and that defendant was not sincere in his claim. The Department of Justice then recommended that defendant's claim not be sustained by the Board. The Appeal Board not only refused to grant defendant's application for I-O status, but reclassified him from I-A-O to I-A, the classification defendant held when he later refused to submit to induction. The Director of Selective Service refused to authorize an appeal to the President from the Appeal Board's decision.

The issues in this case relate solely to the Appeal Board's determinations, defendant contending that they are without basis in law or fact. First, as to the Board's finding that defendant was insincere in his claim,[2] it must be noted that the function of this Court is not to

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[2] Actually, it is not altogether clear that the Board did adopt the Hearing Officer's finding that defendant was insincere, although its reclassification of defendant from I-A-O to I-A suggests that such was the case. However, since the Board gave no reasons for its decision, thus leaving open the possibility that an improper recommendation might have influenced, and therefore rendered invalid, its decision, see *Sicurella* v. *United States*, 348 U.S. 385, 391-92 (1955), *United States* v. *Erikson*, 149 F. Supp. 576, 578-80 (S. D. N. Y. 1957), the Court will assume that the Board found defendant insincere and consider the issue on the merits.

conduct a trial *denovo* on this issue. The Court must recognize and give effect to the Board's determination as long as there is any basis in fact for the Board's find- [fol. 44] ing.[3] There is much in the record that indicates that defendant was sincere in his claim, as the Local Board initially found.[4] On the other hand, it cannot be denied that defendant delayed for some time before making known his conscientious objector feelings, at first only requested exemption from combatant duty and conceded that until he had passed his physical examination he had not given much consideration to his views or thought them through. In view of these facts and considering the record as a whole, the Court cannot say that there was no basis in fact for the Appeal Board's finding of insincerity. See *Witmer* v. *United States*, 348 U. S. 375 (1955); *United States* v. *Corliss*, 280 F. 2nd 808 (2d Cir.), *cert. denied*, 364 U. S. 884 (1960).

The second issue relates to the finding that defendant's claim was not based on religious training and belief, as required by the Act. Section 6j,[5] the conscientious objector section, specifically provides that:

> Religious training and belief * * * means an individual's belief in a relation to a Supreme Being

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[3] *Dickinson* v. *United States*, 346 U.S. 389, 394 (1953).

[4] The FBI report indicates that all of the individual interviewed who felt qualified to comment on the sincerity of defendant's claim expressed the view that it was sincerely made. In addition, defendant placed on the record before the Hearing Officer and the Appeal Board the fact that he had been informed by the clerk of his Local Board about six months before his physical examination in 1958 that he did not qualify for a conscientious objector exemption. Defendant later found out from others that he might qualify, at which time he filed his claim. There is no merit to defendant's argument that the misinformation given him by the clerk deprived him of his right to present and have considered his claim at a time when no question of sincerity could be raised. Even assuming that misinformation was given to defendant, there is still a basis in fact to support a finding that defendant was not sincere.

[5] 50 U. S. C. App. § 456(j).

[fol. 45] involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code.

Applying this criteria to defendant's various statements and the facts of his religious affiliations, it is apparent that the Board was fully warranted in determining that defendant's views were not based on religious training and belief and in denying a I-O classification on that ground.[6]

Finally, although defendant does not explicitly raise this issue, there can be no basis for a claim that defendand was not afforded procedural due process. He received a hearing before his Local Board, at which he submitted both oral and written statements. He was also accorded a personal hearing before the Hearing Officer at which he submitted a further statement. Prior to this second hearing he had received a resume of the FBI report, and he also received a copy of the Department of Justice recommendation and was afforded an opportunity, of which he availed himself, to submit a reply.

I find the defendant guilty as charged. The proof of the charges against him has been sustained beyond a reasonable doubt.

Dated: New York, N. Y.,
February 21, 1963.

EDMUND L. PALMIERI,
U. S. D. J.

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[6] This result would follow whether the question is viewed as one of law, as defendant urges in his claim that Congress did not intend to exclude a position such as his from the definition of religious training and belief, or as one to which the "any basis in fact" test must be applied, as urged by the Government. *Compare United States* v. *Kauten*, 133 F. 2d 703 (2d Cir. 1943) *with Berman* v. *United States*, 156 F. 2d 377 (9th Cir.), *cert. denied*, 329 U. S. 795 (1946) and S. Rep. 1268, 80th Cong., 2d Sess. (1948), U. S. Code, Congressional Service, 80th Cong., 2d Sess., p. 1989, at 2002 [expressly referring to the *Berman* case in connection with the enactment of the present Section 6(j)].

[fol. 46]

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JUDGMENT AND COMMITMENT

On this 26th day of February, 1963 came the attorney for the government and the defendant appeared in person and by counsel.

IT IS ADJUDGED that the defendant has been convicted upon his plea of not guilty and a finding of guilty by the Court, the defendant having waived trial by jury of the offense of being a registrant under the Universal Military Training and Service Act, unlawfully and knowingly failing, neglecting and refusing to submit to induction at the time and place fixed in an Order to Report for Induction mailed him by his Selective Service System Local Board. (Title 50, Section 462, U. S. Code) as charged and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of ONE (1) YEAR AND ONE (1) DAY.

Defendant released on own recognizance pending appeal. [fol. 47] IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

EDMUND L. PALMIERI,
United States District Judge.

JAMES E. VALECHE,
Clerk.

* * * *

[fol. 48]

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

No. 23—September Term, 1963.
Argued October 2, 1963.

Docket No. 28137

UNITED STATES OF AMERICA,
Appellee,

v.

ARNO SASCHA JAKOBSON,
Appellant.

Before:

LUMBARD, *Chief Judge,*

FRIENDLY and SMITH, *Circuit Judges.*

Appeal from a judgment of the District Court for the Southern District of New York, Edmund L. Palmieri, *Judge*, sitting without a jury, convicting appellant of refusal to submit to induction in the armed forces as required by 50 U. S. C. App. § 462. Reversed.

OPINION—November 22, 1963

HERMAN ADLERSTEIN, New York, N. Y., *for Appellant.*

EZRA H. FRIEDMAN (Robert M. Morgenthau, United States Attorney for the Southern District of New York) (James M. Brachman and Robert J. Geniesse, Ass't United States Attorneys, of Counsel), *for Appellee.*

[fol. 49] FRIENDLY, *Circuit Judge*:

Arno Sascha Jakobson appeals from a judgment, entered in the Southern District of New York by Judge Palmieri, sitting without a jury, convicting him of refusal to submit to induction for combatant training as ordered by his Selective Service System Local Board, in violation of 50 U. S. C. App. § 462(a). He maintains that the notice of induction was invalid under § 6(j) of the Universal Military Training and Service Act, 50 U. S. C. App. § 456(j), which provides that the Selective Service Act shall not "be construed to require any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code."

Jakobson's parents were Jews who migrated to the United States in his early youth. When about 13 years of age, he became estranged from the Jewish faith, avowedly because of his distaste for what he considered the "bloodthirsty nationalism" exhibited in certain portions of the Old Testament, such as the Book of Joshua. He registered with his Local Board on September 2, 1953, a few days after his eighteenth birthday. In his classification questionnaire he made no claim of conscientious objection in the item provided for that purpose but did claim physical disqualification because of a back injury, a claim which he supported shortly thereafter by a note from his physician. When his Local Board classified him 1-A, he sought and obtained a student deferment, a status in which, save for one short interval, he remained until February 9, 1956, when he was reclassified 1-A. Nearly two years later he was ordered to report for a pre-[fol. 50] induction physical examination. He presented a second physician's certificate describing his back condition but was found qualified for service and was so notified by the Local Board on March 18, 1958.

A month later Jakobson advised the Local Board that he believed himself exempt as a conscientious objector. With a 15-page addendum and three supporting letters, he filed the Special Form for Conscientious Objectors (SSS Form 150), claiming exemption from combatant service only; he answered the question "Do you believe in a Supreme Being" in the affirmative, with explanations of which we shall say more hereafter. At a hearing before the Local Board in the fall, he stated that even noncombatant service would result in "too many situations and relationships that would be a strain on my conscience * * *" and sought a 1-O classification which would exempt him from all military service but would subject him to a like period of civilian work contributing to the maintenance of the national health, safety, or interest; he also filed with the Board a 43-page discussion of his views.

The Local Board did not question Jakobson's sincerity but concluded that his claim was not based upon religious training and belief as defined in the statute; somewhat inconsistently with this view, it granted him classification 1-A-O, for noncombatant service, to which he was entitled only if he met the statutory test. Jakobson appealed. The Appeal Board tentatively determined that he was not entitled to classification as a conscientious objector in any form, and forwarded the file for an advisory recommendation by the Department of Justice, 32 C. F. R. § 1626.25 (b). After an investigation by a hearing officer, and a generally favorable F. B. I. report on the evaluation of Jakobson by his acquaintances, the Department made the following recommendation to the Appeal Board:

[fol. 51] "The Hearing Officer concluded that the registrant is not opposed to participation in combatant or noncombatant military training and service by reason of his religious training and belief; that his claim is based upon a personal moral code and that he is not sincere in his claim. He recommended that the appeal of the registrant based upon grounds of conscientious objection be not sustained.

"The Department of Justice finds that the registrant's claim is not sustained. It, therefore, recom-

mends that the registrant's claim be not sustained by your Board."

Jakobson then sent a further communication to the Appeal Board, again explaining why he regarded his convictions as religious and seeking to excuse his tardiness in advancing his conscientious objection claim (and the change in his request from a 1-A-O to a 1-O classification). One reason offered was that when about six months before his pre-induction physical examination, he inquired of the clerk of the Local Board as to qualifications for a conscientious objector exemption, he was told this was given "only to individuals with a long and overtly-provable pacifist background" who could produce letters from ministers; he added that since his family background was not pacifist, he had been forced to face this difficult problem by himself, "from scratch," when it arose. On December 9, 1958, the Appeal Board classified him 1-A. After unsuccessful efforts to carry the matter further, he was ordered to submit to induction, but, on completion of his induction physical, refused to take the step forward which symbolizes submission to induction. For this refusal he was indicted and convicted.

The Department of Justice had recommended denial of Jakobson's claim on two grounds: that he lacked sin- [fol. 52] cerity, and that his objections were not based on religious training and belief within the meaning of the statute. The Appeal Board did not indicate on what ground it relied. If we were certain that the denial of exemption rested on a finding of insincerity, Jakobson's five year delay in claiming conscientious objection and his shift of position after making the claim would oblige us to affirm his conviction. The finality which the Act bestows on the decisions of the local and appeal boards, 50 U. S. C. App. § 460(b)(3), precludes judicial rejection of their findings as invalid unless "there is no basis in fact for the classification" given to the registrant, *Estep* v. *United States*, 327 U. S. 114, 122-23 (1946), and "any fact which casts doubt on the veracity of the registrant is relevant." *Witmer* v. *United States*, 348 U. S. 375, 381-82 (1955). In Jakobson's case, as in Witmer's, there were enough "objective facts before the

Appeal Board to * * * cast doubt on the sincerity of his claim," 348 U. S. at 382, see also *United States* v. *Corliss*, 280 F. 2d 808, [Heise] 812, [Herold] 816 (2 Cir.), cert. denied, 364 U. S. 884 (1960). It is immaterial that on the cold record alone we would not have found Jakobson insincere or that the Local Board, which saw him, did not doubt his honesty. The resolution of conflicting inferences from personal observation and from the undisputed history was for the Appeal Board, as, indeed, it would be even if the scope of judicial inquiry were considerably broader than it is here. See *F. C. C.* v. *Allentown Broadcasting Corp.*, 349 U. S. 358, 364-65 (1955).

On the other hand, if the Appeal Board, although believing Jakobson to be sincere, based its classification on the ground that his conscientious objection was not the result of religious training and belief, we would be compelled to reverse the conviction and direct dismissal of the indictment. For we rule it an erroneous construction of [fol. 53] the statute to conclude that Jakobson's beliefs fell outside its definition of religion.

To summarize Jakobson's religious views is not altogether easy. He begins by defining religion as the sum and essence of one's basic attitudes to the fundamental problems of human existence. He recognizes an ultimate cause or creator of all existence which he terms "Godness." In theory an individual's relationship to Godness can take one or the other of two forms, a "vertical" relationship in which man relates directly to Godness, or a "horizontal" one in which man relates to Godness indirectly by binding himself to the qualities of Godness that exist in every creation in Mankind and throughout the world. For himself Jakobson rejects the vertical "one-to-one" relationship because God is unknowable to man, and because action and spiritual growth purportedly based on a direct relationship with Godness must thus lead to error since man can reason but imperfectly about the unfathomable. Moreover, he finds objectionable the egocentric two-dimensional view which the vertical relationship fosters. For him Godness can be approached only through psychic involvement in the three-dimensional world. Inward turning causes spiritual diminution, egocentricity,

and passive "putting up with" the evils of the world rather than an active attempt to change it. The way to arrive closer to Godness is by approaching the universals inherent in existence. The individual must deal directly with life, death, health, love, time—the "givens" of existence stemming from the Ultimate Cause—as he finds them in himself and others.

Jakobson sees himself as faced with an inescapable choice between acceptance or rejection of the order of the universe; for him this is the central problem of religion. He explains the positions of acceptance and rejection by reference to the characters of Ivan and Zossima in "The Brothers Karamazov." Ivan accepts God but rejects the [fol. 54] world because of the evil in it; he can go on living and can love particular individuals, but can only withdraw from the evil that he sees. Ivan doesn't oppose but passively and unhappily acquiesces; with such a position one could go to war by disavowing any personal responsibility. Zossima represents acceptance, which Jakobson defines as total affirmation of the basic blessedness of the fact of being—of goodness and "yesness." The taking of human life is incompatible with acceptance, which sees in all humanity "Godness"—the quality of having been created by the Ultimate Cause. Jakobson adopts the position of acceptance.

The definition of "religious training and belief" in § 6 (j), somewhat unusual for a statute, is the end product of a long development. Without going back further into history, we shall start with the Draft Act of 1917, 40 Stat. 78. This exempted "a member of any well-recognized religious sect or organization at present organized and existing and whose existing creed on principles forbid its members to participate in war in any form and whose religious convictions are against war or participation therein in accordance with the creed or principles of said religious organization * * *" The constitutionality of this provision under the First Amendment was upheld, rather summarily, in *Arver* v. *United States*, 245 U. S. 366, 389-90 (1918). The corresponding provision in the bills that became the Selective Service Act of 1940 were

similarly restrictive.[1] However, in the course of enactment Congress broadened the clause to exempt from combatant training any person "who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form * * *," 54 Stat. 889;[2] "religious training and belief" was left undefined.

[fol. 55] In *United States* v. *Kauten*, 133 F. 2d 703 (2 Cir. 1943), this court was concerned with a claim to exemption by an atheist whose objection to military service stemmed primiarily from a belief that this country's involvement in World War II was a political scheme of President Roosevelt. In denying Kauten's claim Judge Augustus N. Hand said that "The provisions of the present statute * * * take into account the characteristics of a skeptical generation and make the existence of a conscientious scruple against war in any form, rather than allegiance to a definite religious group or creed, the basis of exemption." He distinguished between "a course of reasoning resulting in a conviction that a particular war is inexpedient or disastrous," the most that Kauten had, and "a conscientious objection to participation in any war under any circumstances * * * a response of the individual to an inward mentor, call it conscience or God, that is for many persons at the present time the equivalent of what has always been thought a religious impulse," 133 F. 2d at 708. We applied this view to grant exemption in *United States ex rel. Phillips* v. *Downer*, 135 F. 2d 521 (2 Cir. 1943) and held it determinative in *United States ex rel. Reel* v. *Badt*, 141 F. 2d 845 (2 Cir. 1944). Soon afterwards, however, the Ninth Circuit denied Herman Berman's right to exemption, although his

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[1] See Conklin, Conscientious Objector Provisions: A View in the Light of *Torcaso* v. *Watkins*, 51 Geo. L. J. 252, 269 and fn. 76 (1963).

[2] Congress declined to adopt an even broader amendment, urged by the American Civil Liberties Union, which would have exempted any person "who is conscientiously opposed to participation in war in any form" without any reference to religion. See Conklin, *supra*, 51 Geo. L. J. at 269-70.

views came closer to Phillips' and Reel's than to Kauten's. *Berman* v. *United States*, 156 F. 2d 377, cert. denied, 329 U. S. 795 (1946). In the course of its opinion, the court quoted a phrase in Chief Justice Hughes' dissent in *United States* v. *Macintosh*, 283 U. S. 605, 633-34 (1931), that "The essence of religion is belief in a relation to God involving duties superior to those arising from any human relation," and added that an individual's "philosophy and morals and social policy without the [fol. 56] concept of deity cannot be said to be religion in the sense of that term as it is used in the statute." 156 F. 2d at 381. These two statements were combined into the second sentence of § 6(j) in the 1948 enactment to form the present statutory definition of "religious training and belief"; their derivation from the *Berman* opinion was not left in doubt.[3]

In construing the conscientious objector provision today, we must take account of statements of the Supreme Court subsequent to our decision, *United States* v. *Bendik*, 220 F. 2d 249 (2 Cir. 1955), sustaining the statute's constitutionality, and decisions to the same effect by other courts of appeals. Most pertinent is that in the Maryland notary public oath case, *Torcaso* v. *Watkins*, 367 U. S. 488, 495 (1961):

> "We repeat and again reaffirm that neither a State nor the Federal Government can constitutionally force a person 'to profess a belief or disbelief in any religion.' Neither can constitutionally pass laws or impose requirements which aid all religions as against nonbelievers, and neither can aid those religions

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[3] The Senate Report, S. Rep. 1268, 80th Cong. 2d Sess., p. 14 (1948), states:

> "(j) Conscientious objectors:—This section reenacts substantially the same provisions as were found in subsection 5(g) of the 1940 Act. Exemption extends to anyone who, because of religious training and belief in his relationship to a Supreme Being, is conscientiously opposed to combatant military service or to both combatant and non-combatant military service. (See United States v. Berman, 156 F. 2d 377, certiorari denied, 329 U. S. 795) * * *"

based on a belief in the existence of God as against those religions founded on different beliefs."

Since it is hard to deny that making exemption from military service turn on religious training and belief as stated in § 6(j) aids religions, and, more particularly, religions [fol. 57] based on a belief in the existence of God, at least as significantly as permission to become a notary public, cf. *Speiser* v. *Randall*, 357 U. S. 513 (1958), the *Torcaso* statement requires consideration whether there is some other basis whereby a statute making religious training and belief a condition to exemption from military service can escape condemnation. The important distinction seems to us to be that, in contrast to Maryland's notary public oath, Congress enacted this statute, in mitigation of what we assume to be the constitutionally permissible course of denying exemptions to all objectors, for the very purpose of protecting "the free exercise" of religion by those whose religious beliefs were incompatible with military service which Congress had the right to require. See Mr. Justice Brennan concurring in *Abington School District* v. *Schempp*, 374 U. S. 203, 247-48, 295-98, 301-02 (1963). But, under present day thinking as to the First Amendment, a statute could scarcely be defended on this score if it protected "the free exercise" of only a few favored religions or preferred some religions over others without reasonable basis for doing so. See *Watson* v. *Jones*, 80 U. S. (13 Wall.) 679, 728-29 (1872). The freedom which the Constitution protects is the freedom to exercise the religion of one's choice; a statute limited to certain religions would restrict the free exercise of the disfavored ones. The time-honored principle of construing a statute not only to escape unconstitutionality but to avoid "grave and doubtful constitutional questions," *United States* v. *Delaware & Hudson Co.*, 213 U. S. 366, 407-08 (1909), thus dictates reading the definition of "religious training and belief" in § 6(j) as broadly as the words permit.

The statute clearly does not require belief in an anthropomorphic deity breathing, like the God of the Sistine ceiling, over the face of the waters. Long before 1948 men whose belief in a Supreme Being would not have been questioned had substituted the notion of "God out there"

[fol. 58] for "God up there."[4] The majority opinion in *Berman* recognized this, 156 F. 2d at 380; it asked only that one asserting religious belief should not "assign all beyond [our logical equations] as a great vacancy" but should entertain a belief "going beyond the physical revelations of life." Even more clearly Chief Justice Hughes' statement in *Macintosh*, made in the course of an eloquent dissent insisting on "our regard from the beginning for freedom of conscience," 283 U. S. at 631, was not intended to define "religion" or "God" in any narrow sense. We are by no means certain that the court that rejected Berman's claim because his evidence showed no belief in "a supreme power" of any kind would have rejected Jakobson's. Moreover, the statutory definition need not be regarded as precisely bounded by the *Berman* opinion when the compulsion to read it broadly is so strong. A contemporary theologian of high distinction and wide influence, who has taught at great universities on both sides of the Atlantic, Professor Paul Tillich, has written of God in terms that would surely embrace Jakobson's beliefs. As the footnote shows,[5] Jakobson's definition of

[4] These phrases are used by John A. T. Robinson, Bishop of Woolwich, in a recent book, "Honest to God," a chapter from which is reprinted in Horizon Magazine, Sept. 1963, p. 4.

[5] Rejecting both the supranatural view which "separates God as a being, the highest being, from all other beings, alongside and above which he has his existence" and the naturalist view which identifies God with the universe, Tillich identifies God as the self-transcendent ground of being. "God as the ground of being infinitely transcends that of which he is the ground * * * To call God transcendent in this sense does not mean that we must establish a 'super world' of divine objects. It does mean that, within itself, the finite world points beyond itself. In other words it is self-transcendent." From this view, two seemingly self-contradictory consequences necessarily follow: "first, whatever one knows about a finite thing, one knows about God because it is rooted in him as its ground; second, anything one knows about a finite thing cannot be applied to God because he is * * * quite other, or * * * ecstatically transcendent." 2 Systematic Theology 9 (1957). Knowledge of God comes through the unity of these divergent consequences, the

perception of the ground of being of every object of the natural and spiritual world accompanied by an understanding of transcendence of that thing of which it is the ground.

Other writings of Tillich which seem quite close to Jakobson's beliefs are these:

> "Theism in all its forms is transcended in the experience we have called absolute faith. It is the accepting of acceptance without somebody or something that accepts. It is the power of being itself that accepts and gives the courage to be * * * It transcends both mysticism and personal encounter * * *" Courage to Be, 184-186 (1952).
>
> "I have written of the God above the God of theism * * * In such a state (of absolute faith) the God of both religious and theological language disappears. But something remains, namely, the seriousness of that doubt in which meaning within meaninglessness is affirmed. The source of this affirmation of meaning within meaninglessness, of certitude within doubt, is not the God of traditional theism, but the 'God above God,' the power of being which works through those who have no name for it, not even the name of God." 2 Systematic Theology 12 (1957).

Again, in a passage adopted by the Bishop of Woolwich as the cornerstone of his own belief in God, Tillich says:

> "The wisdom of all ages and of all continents speaks about the road to our depth * * * All those who have been concerned * * * with that road * * * have witnessed the same experience. They have found they were not what they believed themselves to be, even after a deeper level had appeared to them * * * The name of this infinite and inexhaustible depth and ground of all being is God. That depth is what the word God means. And if that word has not much meaning for you, translate it, and speak of the depths of your life, of the source of your being, of your ultimate concern, of what you take seriously without any reservation. Perhaps, in order to do so, you must forget everything traditional you have learned of God, perhaps even that word itself. For if you know that God means depth, you know much about him * * * He who knows about depth knows about God." The Shaking of the Foundations (The Depth of Existence), 56-57 (1948).

[fol. 59] religion as "the sum and essence of one's basic attitude to the fundamental problems of human existence" and his insistence that man can know nothing of God and that Godness can be approached only through psychic involvement in reality parallel the views of this eminent theologian rather strikingly. We cannot believe that Congress, aware of the constitutional problem, meant to ex-
[fol. 60] clude views of this character from its definition of religion,[8] or to require lay draft boards and personnel of the Department of Justice to pass on nice theological distinctions between vertical and horizontal transcendence. See Mr. Justice Jackson, dissenting, in *United States* v. *Ballard*, 322 U. S. 78, 92-95 (1944). It follows that if the decision of the Appeal Board rested solely on the view that the beliefs professed by Jakobson did not meet the test of § 6(j), it was predicated on an erroneous view of the law and afforded no basis for ordering his induction.

Our inability to determine the grounds upon which the Appeal Board based Jakobson's classification complicates the disposition of his appeal. The usual rule is that when a case is submitted to fact finders on two legal theories, one right and the other wrong, their determination cannot stand. *United Pilots Ass'n* v. *Halecki*, 358 U. S. 613, 619 (1959). The applicability of this general principle in selective service cases is supported by a statement in *Sicurella* v. *United States*, 348 U. S. 385, 392 (1955): "Here, where it is impossible to determine on exactly which grounds the Appeal Board decided, the integrity of the Selective Service System demands, at least, that the Government not recommend illegal grounds," although the pertinence of that statement to the instant case is weakened by the fact that in *Sicurella* the sole ground recommended by the Department was held illegal. However, the Supreme Court cited with approval *United States ex rel. Levy* v. *Cain*, 149 F. 2d 338 (2 Cir. 1945),

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[8] Jakobson comes closer to a traditional reading of "Supreme Being" than Tillich in one respect, namely, his acceptance of the notion of an original creator and supreme existence, which Tillich finds unacceptable as subjecting God to categories of finitude.

where this Court granted a writ of *habeas corpus* because a special advisory panel had made a general conclusory recommendation that may have rested on grounds beyond its power and there was no proof that the Board [fol. 61] had ignored it. And in *United States* v. *Erikson*, 149 F. Supp. 576, 579 (S. D. N. Y. 1957), Judge Kaufman acquitted a defendant where although "the Appeal Board could validly have rested its decision on the hearing examiner's impression that the defendant was insincere, there was no evidence that the Board based its decision on this ground rather than the invalid ground." See also *Shepherd* v. *United States*, 217 F. 2d 942 (9 Cir. 1954), rehearing den., 220 F. 2d 855 (1955); and *Ypparila* v. *United States*, 219 F. 2d 465 (10 Cir. 1954). We do not read *Sovich* v. *Esperdy*, 319 F. 2d 21 (2 Cir. 1963), cited by the Government, as deciding anything to the contrary since in that case the Regional Commissioner expressly concurred in the erroneously reasoned opinion of the Special Inquiry Officer.

Since Jakobson's classification may have rested on an erroneous ground, his conviction cannot stand. We see no principle that would prevent our reversing for a new trial in which, if the Government chose, it could endeavor to prove from the mouths of members of the Appeal Board that they considered Jakobson to have been insincere. See *United States* v. *Balogh*, 157 F. 2d 939, 944 (2 Cir. 1946), judgment vacated on other grounds, 329 U. S. 692 (1947); *United States ex rel. Reel* v. *Badt*, *supra*, 141 F. 2d 845 (2 Cir. 1944). But because we are dealing here with action taken by the Appeal Board five years ago, we think it more "just under the circumstances," 28 U. S. C. § 2106, to direct dismissal of the indictment, as was done in *Batelaan* v. *United States*, 217 F. 2d 946, 947 n. 1 (9 Cir. 1954); *Shepherd* v. *United States*, *supra*, 217 F. 2d 942; *Ypparila* v. *United States*, *supra*, 219 F.2d 465; and *United States* v. *Erikson*, *supra*, 149 F. Supp. 576, without prejudice to such new proceedings for Jakobson's induction, if any, as the Selective Service System may think it wise to undertake.

Reversed.

[fol. 62]

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

* * * *

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE

v.

ARNO SASCHA JAKOBSON, DEFENDANT-APPELLANT

JUDGMENT—November 22, 1963

Appeal from the United States District Court for the Southern District of New York.

This cause came on to be heard on the transcript of record from the United States District Court for the Southern District of New York, and was argued by counsel.

ON CONSIDERATION WHEREOF, it is now hereby ordered, adjudged, and decreed that the judgment of said District Court be and it hereby is reversed and that the action be and it hereby is remanded with direction to dismiss the indictment in accordance with the opinion of this court.

A. DANIEL FUSARO
Clerk

[fol. 63]

[File Endorsement Omitted]

[fols. 64-77] * * *

[fol. 78]

IN THE UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

[Title Omitted]

ORDER DENYING PETITION FOR REHEARING—
February 10, 1964

A petition for a rehearing having been filed herein by counsel for the appellee,

Upon consideration thereof, it is

Ordered that said petition be and hereby is denied.

A. DANIEL FUSARO
Clerk

[fol. 79]

[File Endorsement Omitted]

[fol. 80]

[Clerk's Certificate to foregoing Transcript Omitted in Printing.]

[fol. 81] IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT'S EXHIBIT No. 24

SELECTIVE SERVICE SYSTEM

Form approved, Budget Bureau No. 33-R118.

SPECIAL FORM FOR CONSCIENTIOUS OBJECTOR

Selective Service No. 50 27 35 417

Date of Giving April 18, 1958

Date received back at local board

Selective Service System
LOCAL BOARD NO. 17
321 West 44th Street
New York , N. Y.
(Local Board Stamp)

Name JAKOBSON, ARNO SASCHA
(Last) (First) (Middle)

Address 111 Ellwood Street, Apt. 4-F
(Number and street or R. F. D. route)

New York 34, New York
(City, town, or village) (County) (State)

This form must be returned on or before MAY 25, 1958
(Ten days after date of mailing or issue)

INSTRUCTIONS

A registrant who claims to be a conscientious objector shall offer information in substantiation of his claim on this special form, which when filed shall become a part of his Classification Questionnaire (SSS Form No. 100).

The questions in Series II through V in this form are intended to obtain evidence of the genuineness of the claim made in Series I, and the answers given by the registrant shall be for the information of only the officials duly authorized under the regulations to examine them.

In the case of any registrant who claims to be a conscientious objector, the local board shall proceed in the prescribed manner to determine his proper classification. The procedure for appeal from a decision of the local board on a claim of conscientious objection is provided for in the Selective Service Regulations.

Failure by the registrant to file this special form on or before the date indicated above may be regarded as a waiver by the registrant of his claim as a conscientious objector; *Provided*, the local board, in its discretion, for good cause shown by the registrant, may grant a reasonable extension for filing this special form.

SERIES I—CLAIM FOR EXEMPTION

INSTRUCTIONS.—The registrant must sign his name to either statement A or statement B in Series I, but not to both of them. The registrant should strike out the statement in this series which he does not sign.

I am, by reason of my religious training and belief, conscientiously opposed to participation in war in any form. I, therefore, claim exemption from combatant training and service in the Armed Forces.

(Signature of registrant)

I am, by reason of my religious training and belief, conscientiously opposed to participation in war in any form and I am further conscientiously opposed to participation in noncombatant training and service in the Armed Forces. I therefore, claim exemption from both combatant and noncombatant training and service in the Armed Forces.

(Signature of registrant)

Under the provisions of section 6 (j) of the Universal Military Training and Service Act, as amended, any person who claims exemption from combatant training and service in the Armed Forces of the United States because of his religious training and belief, conscientiously opposed to participation in war in any form and each claim in such connection, shall, if he is inducted into the Armed Forces, be assigned to noncombatant service as defined by the President or shall, if found to be conscientiously opposed to participation in such noncombatant service, in lieu of induction, be ordered by his local board, subject to regulations prescribed by the President, to perform for a period of twenty-four consecutive months such civilian work contributing to the maintenance of the national health, safety, or interest as the local board deems appropriate. Any such person who fails or neglects to obey such order of the local board shall be subject to imprisonment for not more than five years or a fine of not more than $10,000, or both such fine and imprisonment.

SERIES II—RELIGIOUS TRAINING AND BELIEFS

INSTRUCTIONS.—Every question in this series must be fully answered. If more space is necessary, use extra sheets of paper to this page.

1. Do you believe in a Supreme Being? Yes ☐ No ☐

2. Describe the nature of your belief which is the basis of your claim as set forth in Series I above, and state whether or not your belief in a Supreme Being involves duties superior to those arising from any human relation.

[illegible]

SSS Form No. 150 (Revised 4-25-52). This revision supersedes ... (1)

[fol. 82]

3. Explain how, when, and from whom or from what source you received the training and acquired the belief which is the basis of your claim made in Series I above.

quaker trained as captain's clerk at prayer

4. Give the name and present address of the individual upon whom you rely most for religious guidance.

I rely only upon inner inspiration

5. Under what circumstances, if any, do you believe in the use of force?

[illegible] in case of danger

6. Describe the actions and behavior in your life which in your opinion most conspicuously demonstrate the consistency and depth of your religious convictions.

quaker training in basic principles

7. Have you ever given public expression, written or oral, to the views herein expressed as the basis for your claim made in Series I above? If so, specify when and where.

have not for only given personal expression to my views in discussions with friends and associates

Series III.—GENERAL BACKGROUND

INSTRUCTIONS.—Every question in this series must be fully answered. If more space is necessary, attach extra sheets of paper to this page.

1. Give the name and address of each school and college which you have attended, together with the dates of your attendance; and state in each instance the type of school (church, military, commercial, etc.).

Name of School	Type of School	Location of School	Dates Attended From—	To—
PS 154	grade	156 St bet 4th & 5th Aves	19 41	19 42
PS 153	junior high	153 St & Convent Ave to 145 St & Broadway	19 42	19 44
HS [illegible]	academic	Convent Ave & 139 St to 135 St & Broadway	19 44	19 45
Manh. Coll. (Night Sess.)	[illegible]	135 St & Convent Ave to [illegible]	[illegible]	19 53

2. Give a chronological list of all occupations, positions, jobs, or types of work, other than as a student in sc[illegible] or college, in which you have at any time been engaged, whether for monetary compensation or not, giving the facts indicated bel[illegible] with regard to each position or job held, or type of work in which engaged.

Type of Work	Name of Employer	Address of Employer	Period Worked From—	To—
[illegible]	[illegible]	[illegible]	19[illegible]	19[illegible]
[illegible]	[illegible]	[illegible]	19[illegible]	19[illegible]
[illegible]	[illegible]	[illegible]	19[illegible]	19[illegible]
[illegible]	[illegible]	[illegible]	19[illegible]	19[illegible]
	[illegible]	[illegible]	19	19

[fol. 83] SERIES II

2. nature of my beliefs—

I believe in a Supreme Being that is higher than Man. In this context I use the word "Being" to be synomous with "that which is", or "reality". By "higher than Man" I men the "Creator of Man"; and by "create" I mean to be "ultimately responsible for the existance of". That is, I believe that the existance of Man is the *result* of the existence of the Supreme Reality.

I feel that as a human being with human limitations I am incapable of knowing anything more about the nature of the Supreme Reality other than the fact that such Reality does exist. I feel that I am able to know the fact of the existance of such a Supreme Reality by means of reason aided by faith; that is to say, through active, concentrated, meditation about the problems involved, and through unwavering faith in my own powers for seeking and recognizing the truth, and in my right as a human being for attempting to do so.

I therefore believe that the essence of my religious quest lies not in my seeking for knowledge about the nature of the Supreme Reality, which to me is unknowable; rather it lies in my seeking for knowledge about the ultimate nature of *that which was created by* the Supreme Reality, namely, about Man. It lies in my searching for those objective moral standards which my divinely-given reason can accept as most closely satisfying the ultimate nature of man.

I wish to emphasize here that the process of concentrated contemplation that this involves is an active and important part of my living experience; that I sincerely believe that though my efforts substitute mediation and contemplation for the more common religious techniques of prayer and ritual, they still constitute "religious experience" in its highest sense, as they involve what for me is the only kind of relationship with the Supreme Reality that is possible: a relationship with *that which the Su-*

[fol. 84] *preme Reality has created.*

I believe that each man possesses the potential for free Will; that men can, with concentrated effort, achieve volition that is not completely determined by heredity and environment. I believe this through introspection, reason, and faith; introspection that tells me that I can achieve such volition, (and I am a human being like all others,) reason that tells me that all progress must ultimately be based on such free, creative volition, and faith in the validity of the results of my reason and introspection. I believe that this premise of Free Will has two inescapable corrolaries: 1) that Man must be partly spiritual; for if he were entirely a physical being whose mind is nothing but an electron-proton complex, he could not be said to possess free volition, as the laws of cause and effect apply completely for purely physical phenomena. For this reason—Man's spirituality—I feel it is valid to say that Man is partly akin to the Supreme Reality. It is this belief which leads me to ascribe dignity and worth to each individual to feel that no individual has the right to pass complete judgement over any other individual lightly, no matter what the situation may be. 2) that Man must have both the necessity and ability for seeking and setting moral values for himself, as his Freedom frees him *from* the fetters of pre-inscribed and pre-determined values, and frees him *to* develop his own values with the use of his devine gift of reason.

I feel that the most ascertainable value judgments that I can make are those which are most directly connected with those aspects of Man's existance which are themselves most certain. I believe that of all the things that exist, the most certain of all is Life. Through observation and introspection I sense and know the existance of Life and know many of its characteristics: that Life represents all that Man is ever *given* in an ultimate sense, everything else is created and arranged by men; that Life is therefore fundamental to everything else; that [fol. 85] everything that has to do with health, love, and reason is joyful, while everything that has to do with illness, hatred, and destruction is painful and a precursor of Death; that death means not only the loss of those things that men have contributed to human existance,

but also of those that are in my opinion devinely given to human existance—breath, warmth, the power of reason, the joy of the sense of aliveness, etc. For these reasons I feel, and have for a long time felt, that my most basic value judgment, the one that I feel most strongly about, is that Life is sacred; that it is a higher value than all other values. That no man ought ever to wilfully sacrifice another man's life as a means to any other end, most especially when the victim might possibly an innocent individual who is unfortunate enough to constitute a "statistical" sacrifice as in the case of a bombing raid, for example, is for me my most important religious law.

I would like to emphasize here how strongly I feel about this point and its related problems; how my attitude to the willful taking of another man's life stems from my most sacred convictions, and how it comprises the deepest part of my conscience, which I feel I cannot allow myself to compromise with if I am to keep my moral integrity.

* * * *

My conscientious opposition to war is ultimately based on the above convictions. I would like now to attempt to summarise briefly my reasons for my opposition to war:

1) Naturally, my primary reason for opposing war in any form is that I am opposed to and horrified by the violently destructive nature of war. I am opposed to the unlimited use of violent force that an army possesses. I am opposed to the fact that war entails the sacrifice and destruction of countless innocent individuals. I feel that this totally destructive nature of war is completely incompatible with my most sacred convictions. I feel that [fol. 86] it is this very violent destructiveness which is the real evil; that it is the method "war" itself which must be fought if we are to have a lasting peace.

2) In wars the enemy is reduced to a mere abstraction—he is "a nazi" or "a gook". In reality, however, a soldier is more than merely an incarnation of the principles he has allowed himself to represent: he is a total, concrete human being with strengths and shortcomings, hopes and anxieties. Even the most depraved individuals have a

spiritual aspect to them, as all men stand in the same relationship to the Supreme Reality that has created them. I feel that it is incompatible with my most sacred convictions to reduce the killing of concrete human being to a statistical necessity, as I consider all human beings to be special and worthy of serious and special consideration.

3) Wars are rooted in deeper causes than their overt "reasons" would indicate. A century that is characterized by one major catastrophe after another, one polarization into "opposing camps" after another, is a century which exhibits the inevitable results of a final degeneration of an inherently inadequate system of culturally-patterned values, a system of values which sees Man as a debased, non-spiritual entity who can readily be sacrificed as a means to another man's ends when those ends are widely enough accepted as being noble. War serves to represent, exhibit, and pass on these values in their most highly degenerated form. The fighting of wars gives impetus to the very moral atmosphere in which further conflicts can so easily breed. And most particularly, I feel that a "balance of power" build-up like the present one must necessarily have an insidious effect on future developments, by providing both the means and the tensions for future bloodshed. Thus I feel that wars and their preparations not only contradict my most sacred convictions while they are being fought, but they also serve in a long range sense to produce the very moral atmosphere [fol. 87] that seems to be a necessary and sufficient requirement for their perpetration. In other words, I not only believe, for the reasons already stated, that the ends we all desire do not justify the methods of war, but I also believe that the methods of war are not a practical means to those ends.

4) I feel that the better way to bring about a peaceful world is for individuals, whose consciences direct them to do so, to stand against the very core of the problem, by not adopting the techniques of war themselves, and by working in a positive way for peaceful aims instead. I feel that a non-combatant's classification would enable me to serve my country in a way that is compatible with my

deepest convictions, convictions which are grounded in my religious beliefs, by enabling me not to be required to do what I cannot do. I therefore ask you for the privilege of being allowed to take advantage of the laws and precedents which exist for this purpose.

[fol. 88] 3) source of beliefs—

My beliefs developed entirely by means of my own active efforts. I have never been a member of a religious or any other organization which officially advocates nonviolence. Though some aspects of my present views—such as my belief in a Supreme Reality and certain of my attitudes towards war and killing—have been with me for a long time, my convictions taken as a whole can be said to have developed slowly over a long period of time; a development which entailed conscious allocation of time for active concentration, and one which I believe has always slowly but steadily tended to move in one direction: towards my present views. Admittedly, because of the solitary nature of this development, for a long time my views have been fragmentary in nature, and have only become more or less unified as a result of the last few years' efforts.

I was raised by my parents in the Jewish tradition, and I continued to feel myself to be rooted in that tradition until I was about thirteen or fourteen years old. After that time, my feelings of connection with that tradition slowly but surely waned under the influence of more universal beliefs that I began to incorporate, beliefs which in some cases conflicted with the Jewish tradition.

Though I have never been trained in total views on these matters which I accepted outright, I did read things and experience things which I feel had some influence on the directions that my convictions have steadily been taking, and thus in a very loose sense, I can be said to have received the benefit of others' knowledge and experience, which is ultimately what "training" entails anyway.

The earliest influence that I can remember is a book which made a tremendous impression on me when I first

read it at the age of eight or nine. I read it twice in a row then; it was the first real book I ever read, and I've read it many times since. It was Felix Salten's "Bambi", which, contrary to the popular conception, based on the Disney "adaptation", is a consciously conceived allegory [fol. 89] of Life that very definately expresses a social, moral, and religious point of view, and one that is extremely compatible in many respects to my present day views.

It was a few years after that when I first started to feel and express dissatisfaction, in a childs way, with certain aspects of the Jewish tradition, such as with the bloodthirsty nationalism displayed in the episode of Joshua, etc. The influence of my first non-local surroundings, Music and Art High School, first made me feel related to people of all races and religions, and was I think an important early influence for my seeking a more universal basis for my religious needs.

One of the most important influences towards the development of my present convictions was the experiences I had as a counselor in the welfare childrens camps with which I have been connected since 1953, the details of which are listed in section III. It was there that I saw at first hand, through my own experiences of working with boys, how the effects of love and understanding combined with a positive emphasis were much more satisfactory in the long run than the effects of a "disciplinarian" approach combined with a negative emphasis on punishment. In the summer of 1955 I saw the truth of this most clearly in connection with a particularly hostile and aggressive boy, one with a record of bad relationships to Authority, who responded extremely well to the kind of treatment described, much better than can be usually expected in such a short period of time. It was in this environment that I first started to cope more or less seriously with the problems that are expressed in this request.

More recently I read several books which I believe to have helped me to achieve a greater unity and understanding of many aspects of these problems. Some of these which I can now recall are:

Remarque—All Quiet On The Western Front.
Sorokin—The Crises Of Our Age; S.O.S.—The Meaning Of Our Crises
Koestler—Reflections On Hanging
[fol. 90] Fromm—Escape From Freedom, Man For Himself, Religion and Psychoanalysis, The Sane Society, The Art Of Loving
Dostoevski—Crime And Punishment, Notes From The Underground
Etc.

But above all, I must emphasize that my present beliefs and convictions were developed mainly by means of an active, concentrated effort to think about the problems involved, an effort which included the spending of much time sitting alone and thinking about the problems involved, often with the aid of making notes, scribbles, outlines, etc. It is in this manner that my religious and social thinking has developed in the last few years.

[fol. 91] 5) the use of force—

My attitudes to the use of force are a direct result of my basic religious convictions relating to the sanctity of Life and the dignity of the individual. I feel that force might be justifyable in certain circumstances when it is non-violent. Some examples of such force that come to my mind are the following: (1) physical restraint of a child who is about to do some harm (2) world economic boycott of a nation whose internal developments are likely to lead to future belligerance (3) the force of firmly voiced moral opinion (4) the Montgommery bus boycott (5) the force of benevolent, loving actions in individual and social situations, etc. As each situation has its own extenuating factors, it is difficult to make meaningful generalizations.

Do I believe that violent force is ever justfyable? A hypothetical situation is often given—unfortunately one that often has some relation to some real situations—in which one is asked what he would do if he had to make an inescapable choice between allowing innocent victims to be murdered or killing the murderor first. A "suppose" situation is easily invented to illustrate such a problem, in which the only kind of force possible to prevent the

murder is for some reason or other violent, death-dealing force. No physical restraint, no moral opinions. Would I shoot to stop the man who I know is about to murder the child, or would I allow, by my inaction, this act to happen? I don't know. Life, to me, is sacred, but here it seems that I can't live up to this fully no matter what I did or didn't do. Which decision would enable me to best live up to my convictions as to the sanctity of life? Perhaps I would use the violent force, and be sorry later on. Or perhaps I would do nothing and feel guilty later on. No one knows exactly how he will react in a given situation; until it comes, he can only set his moral standard in such a way as is most meaningful to him, and then try to live up to them as closely as possible. Some criteria I think I might want to use in such a "suppose" [fol. 92] situation are: (1) would the force be likely to hurt innocent bystanders (2) would my actions be vengeful and done in anger, or would they be done sadly and only in order to help (3) is it at all possible to help without using violence (4) would my using violent force tend to have the pernicious effect of concretely leading to more violence and more bloodshed? Even so, I just don't know how I'd react in this "suppose" situation.

The real question involved seems to be exactly where to "draw the line" between advocating and not advocating the use of violent force. But in terms of my attitude to war, the question of drawing that line is relatively meaningless, for though I may feel some confusion as to exactly where to draw it, I believe that I do definitely feel that the use of war in any case is one use of force that I would *not* advocate, whatever the circumstances. The war situation can never be compared as an exact analogy to the "suppose" situation. I believe this for the following reasons:

1) war absolutely must hurt countless innocent individuals. A bomb cannot pick out guilty victims, no matter what the definitions of "guilt" are.

2) war does have a pernicious effect in that it tends to produce and strengthen the moral atmosphere that breeds more of the same.

3) it is impossible to fully equate an enemy soldiers actions, no matter how evil his country's purposes are, with the actions of an individual maniac, as there are too many extenuating factors. In most cases, an enemy soldier is a concrete human being, in many ways rooted in his sociocultural environment with its values and illusions, who, accepting the dynamics of social structure as simply something that is, allows himself to be swept into a situation in which he is required and trained to kill his individual "enemies" as they come to him, without regard to who or what they might be. I believe that in many cases the soldiers on *both* sides can be meaningfully described in this way, and the very *possibility* that I might be called upon to end the life of an individual whose main crime is the same kind of moral weakness that I would be [fol. 93] exhibiting if I ever allowed myself to do combatant service in a war, is in itself a sufficient reason to make me want to make this appeal for classification, though there are so many more.

4) the most atrocious and bloodiest acts of wars are usually commited well after the violent conflicts have been well under way, and such acts are before very long commited by all the participants. By contrast, nonviolent resistance does not usually produce atrocities of the Buchinwald-Hiroshima magnitude.

5) in war, the real evil is war itself, and the only really effective way to fight this evil is by drawing a moral line and by standing against the methods of violent destruction themselves. In the war situation, one *can* stand for the sanctity of life, by simply not killing when his most sacred convictions tell him not to kill.

"But what if the Nazi's and Japanese had won while we were all pacifists?" In the first place, this question completely disregards the inseperable connections which exist between a widely-accepted system of values and the situational results of such a system of values. Pacifism is a system of values. Western culture can be said to have undergone a more or less common history of slow development, and part and parcel of such a development is the development of a system of values. It is this historical-

social connection between the various nations of the Western world which causes their inescapable similarities. If the U.S. had been basically pacifist by the 1940's, then the same would have had to have been true of the rest of the Western World, at least to some extent, and then the conditions which led to the war probably wouldn't have occurred. In the second place; even if this were not so, pacifists wouldn't have handled our part of the world's relationships in the first half of the century in exactly the same way in which they were handled: they probably would not have allowed any scrap metal to be sent to Japan, for instance. One cannot expect pacifism to pro- [fol. 94] duce immediate results, especially in a situation which was bred for a long time in a world atmosphere of non-pacifism.

But even in spite of all this, I feel that under no circumstance, even under those resembling the aggressions of the Nazi's and the Japanese, would I be able to advocate the use of the methods of war, with its disregard for the dignity and safety of innocent individuals, its total destructiveness, and all the other characteristics I have already attempted to present.

[fol. 95] 6) actions and behavior—

In high school and in college I majored in Art, and I am still planning to spend a major part of my life's liesure painting. In 1956, I worked in the Advertising field as an art studio apprentice (the details are listed in section three) for three months, but finding that I couldn't with a clear conscience continue to contribute to an institution to whose aims and methods I felt so deeply opposed, I left that field and have worked in the Metropolitan Museum of Art ever since as a mailboy—clerk, in spite of the relatively low financial and social level in which I have remained as a result of this choice.

I believe in the communicative value of Art in its highest sense. I have always put more emphasis on positive peaceful achievements—the painting of a good picture, the success of a counseling assignment—than I have on the speaking or standing against something that I believe has a pernicious influence; though it is true that I have

never and will never work for a company that I feel at the time to have a close direct connection with a war effort. I doubt if I would ever again allow myself to come even as close to something which I don't believe in as the advertising field. However, I do put my major emphasis on positive achievements, and for that reason feel I can accept a 1-A-O with a clear conscience.

It is also for that reason that I have decided to pursue a career in Social Work. I based that decision on a few courses that I have taken in related subjects, and on the experiences I have had in counseling.

I spent three summers as a counselor in a childrens welfare camp. Not having a vacation the fourth summer, I donated my services to a childrens welfare camp during my weekends, without compensation. I worked at that camp for five weeks during the fifth summer, during my five-week vacation from my regular full-time work at the museum. The details are listed in section three. In doing this work with children, I have always tried to put into practice my beliefs about the ultimate value of love [fol. 96] and understanding as methods for working with people. I believe that I achieved some degree of success with these methods in my counseling experiences. At one time (1955), when I was asked to write reports about my work with each of the boys in my group, I included in my reports my opinions and observations regarding the effects of such treatment. These reports were not found acceptable by the Supervisor involved, and as I could not bring myself to make conclusions which I didn't believe to be the relevant ones, my reports were discarded, and new ones were written in their place by the supervisor. I have not been able to obtain my original reports. I am sorry that my background and development is such as I can not present more material here, as I realize that this would tend to make your decision a more difficult one.

[fol. 97] *Further Information—series III*

1) schools, continued.

City College of N.Y.—college—139 St. and Convent Ave. 1953-1956

Columbia University—college—116 St. and Broadway—1957-1958—both in Manhattan

2) work, continued.

children's counselor—Camp Poyntelle, Inc., 204 W. 71 St. Manhattan—summers of 1953, 1954, 1955

maintenance helper and relief childrens counselor—Camp Madison-Felicia, Inc.—150 Nassau street, New York 38, N.Y.—parts of summers of 1956, 1957

3) addresses, continued.

Neither I nor my parents can recall our addresses in Germany or in Cuba. Neither I nor my parents can remember the house number of our first apartment in Manhattan.

[fol. 98]

3. Give all addresses and dates of residence where you have formerly lived

Name of City, Town, or Village	State or Foreign Country	Street Address & Apt. No. if any		
BERLIN	GERMANY	?	19 ??	19 ??
AVANA	CUBA	?	19 ??	19 ??
[illegible]	NY	[illegible] 1ST ST MANHATTAN	19 91	19 ??
NYORK	NY	411 E 69TH ST MANHATTAN	19 92	19 PRES
			19	19
	SEE ATTACHED SHEET		19	19

4. Give the name and address of your parents and indicate whether they are living or not.

[illegible] FATHER [illegible] NEW YORK NY [illegible]

[illegible] MOTHER [illegible] NEW YORK NY [illegible]

5 (a) State the religious denomination or sect of your father [illegible]

(b) State the religious denomination or sect of your mother [illegible]

Series IV.—PARTICIPATION IN ORGANIZATIONS

INSTRUCTIONS.—Questions 1, 2, and 3 in this series must be fully answered. If more space is necessary, attach extra sheet(s) of paper to this page.

1. Have you ever been a member of any military organization or establishment? If so, state the name and address of same and the reasons why you became a member.

NO

2. Are you a member of a religious sect or organization? NO (Yes or no) If your answer to question 2 is "Yes," answer questions (a) through (e).

(a) State the name of the sect, and the name and location of its governing body or head if known to you

(b) When, where, and how did you become a member of said sect or organization?

(c) State the name and location of the church, congregation, or meeting where you customarily attend

(d) Give the name, title, and present address of the pastor or leader of such church, congregation, or meeting

(e) Describe carefully the creed or official statements of said religious sect or organization in relation to participation in war

3. Describe your relationships with and activities in all organizations with which you are or have been affiliated, political, or labor organizations.

I [illegible] MEMBER OF [illegible] FROM [illegible] TO [illegible]

[illegible] ACTIVITIES [illegible] MEMBER OF THE CITY CREDIT UNION [illegible]

I [illegible] SERVED [illegible] PUBLIC [illegible] [illegible] I WAS A MEMBER OF [illegible]

[illegible] INC. PLAN [illegible] FROM 1953 TO 1956 I WAS A [illegible]

IN

[fol. 99]

Series V.—REFERENCES

Give here the names and other information indicated concerning persons who could supply information as to the sincerity of your profound convictions against participation in war

Name	Full Address	Occupation or Position	Relationship (if any)
George Vos	166 Centre St Brooklyn N.Y.	Teacher	Friend
Jay Leonard	71 Crescent St Long Island City	Teacher	Friend
Ernest Mann	1911 Columbia St Brooklyn N.Y.	Teacher	Friend

REGISTRANT'S CERTIFICATE

INSTRUCTIONS.—1. Every registrant claiming to be a conscientious objector shall make this certificate. 2. If the registrant cannot read, the questions and his answers thereto shall be read to him by the person who assists him in completing this questionnaire. 3. If the registrant is unable to sign his name he shall make his mark in the space provided for his signature in the presence of two persons who shall sign as witnesses.

NOTICE.—Imprisonment for not more than five years or a fine of not more than $10,000, or both such fine and imprisonment, is provided by law as a penalty for knowingly making or being a party to the making of any false statement or certificate regarding or bearing upon a classification. (Universal Military Training and Service Act, as amended).

I, John Sparks, certify that I am the registrant named and described in the foregoing statements in this questionnaire; that I have read (or have had read to me) the statements made by and about me, and that each and every such statement is true and complete to the best of my knowledge, information, and belief. The statements made by me in the foregoing are (are, are not) in my own handwriting.

Registrant sign here [signature] (Signature or mark of registrant)

(Signature of witness to mark of registrant)

(Signature of witness to mark of registrant)

If another person has assisted the registrant in completing this questionnaire, such person shall sign the following statement:

I have assisted the registrant herein named in preparation of this questionnaire because

(For example—registrant unable to read and write English, etc.)

(Signature of person who has assisted)

(Occupation of person who has assisted)

(Address of person who has assisted)

Selective Service Board
LOCAL [illegible] No. 17

U. S. GOVERNMENT PRINTING OFFICE 16—54331-5

[fol. 100] IN UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT'S EXHIBIT No. 25

April 21, 1958
76 Crescent Street
Northampton, Massachusetts

Selective Service System
Local Board 17
321 West 44th Street
New York, New York

Dear Sirs:

I have known Arno Jakobson for nearly four years. In that time I have never known him to act with less than a scrupulous honesty which is extremely rare in our society. He is honest not only in his dealings with others; he is self aware and honest with himself. His request for a IAO classification is a thoroughly serious and entirely sincere request. I think that there is no question but that his application for this classification is one of those which the selective service legislation was designed to honor.

I have not discussed Mr. Jakobson's grounds for his beliefs with him in detail. I do know many of his most basic beliefs from many conversations that we have had during the past four years. These beliefs are mature and of long standing; there is evident consistency among his beliefs. It is his persistent feeling that he does not do a clear or effective job of stating his thoughts, but I have found him able to express the core of his thinking with great directness and freedom from the irrelevant.

I hope that you will give favorable consideration to Mr. Jakobson's application. I believe that his usefulness to his nation and to mankind will be best realized if you

use your power to permit him to act as his conscientious belief dictates.

Sincerely yours,

/s/ Jay Savereid
JAY SAVEREID
Assistant Professor
Speech Department
University of Massachusetts

[fol. 101] IN UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT'S EXHIBIT No. 26

EVENING STUDENT ORGANIZATION
Fordham University—School of Education
302 Broadway, New York 7, N. Y.

April 23, 1958

Selective Service Administration
321 W. 44th St.
New York City, N. Y.
Local Board 17
Dear Sirs,

I have known Arno Jacobson for more than two years. I have come to know and understand his opinions on many subjects and while I completely disagree with his views, especially as regards the problem of the soldier in war, I know that his beliefs on these subjects are sincere.

Arno and I worked together in very close association for more than a year. We debated many current issues as well as different eternal questions. As a result of our numerous discussions I am positive that he is definitely convinced that the killing of another human being for any reason whatsoever is absolutely wrong. Arno would never

fire a weapon at any enemy soldier even if his life depended on it.

I admire Arno for the sincerity of his belief, but I cer-
[fol. 102] tainly do not share it nor do I agree with his religious views. I am a Roman Catholic and am at present a Sergeant in Company "A" of the 165th Infantry (69th N.Y.) of the New York National Guard.

I believe that the safety of our nation lies in a strong military defense force, but I do not believe that the purposes of our army can be served by placing Arno Jacobson in any combat type service. He is obviously a concientious objector and should be classified as such by your office.

Sincerely

/s/ Robert W. Haney

[Handwritten]

Selective Service System
LOCAL BOARD NO. 17
April 28, 1958
321 West 44th Street
New York 11, N. Y.

[fol. 103] IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
GOVERNMENT'S EXHIBIT NO. 27

NEW YORK OFFICE: 150 NASSAU STREET, N. Y. 38, N. Y. Beekman 3-4540

CAMP MADISON-FELICIA, INC.
R.F.D. #1, Putnam Valley, N. Y.

OPERATED WITH THE COOPERATION OF THE SOCIETY FOR ETHICAL CULTURE / CAMP DIRECTOR: GEORGE NEW

ADVISORY COMMITTEE
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Mrs. Sidney H. Schauer
Dr. Max Schneider
Saul Shaffer
George P. Shettle
Arthur Simon
David W. Summerfield
Dr. A. A. Wassell
Mrs. Arthur A. Zucker

April 22, 1958

Selective Service System
Local Board # 17
321 West 44th Street
Manhattan, New York

Dear Sirs:

I am sending this letter at the request of Arno Jakobsen, draftee.

Mr. Jakobsen is known to me through three summers of service at Camp Poyntelle, a camp for underprivileged New York City children of which I was formerly director, and through two summers of service at Camp Madison-Felicia, also a camp for underprivileged children which I am currently directing.

Mr. Jakobsen was a conscientious and reliable staff member. As a counselor, he took a deep interest in the welfare of the children with whom he worked and in the conditions which had led to the pressures and troubles many of them were experiencing - at Poyntelle our campers came through case-work and other child-care agencies, and many of them were severely deprived.

I can recall hearing Mr. Jakobsen, through these several summers, express his concern, in discussions with other staff members, with violence as a means of resolving social problems. I have every confidence that he is a conscientious person of high integrity, and that his present conviction that he must seek non-combatant service status is sincerely taken.

I will be pleased to provide you with any further information which will be helpful to you in meeting your responsibility for a decision in his regard,

Sincerely,

George New, Director
Camp Madison-Felicia

GN:f

Contributions to Camp Madison-Felicia, Inc. are deductible from taxable income

[fol. 104]

Dear sirs,

This is to declare that Arno Jakobson, residing at 111 Ellwood St., New York 34, N.Y., was employed at Camp Poyntelle in Poyntelle, Pa. till Sept. 1.

/s/ George New
Executive Director

[fol. 105] IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT'S EXHIBIT No. 28

New York City Selective Service System
Selective Service System
LOCAL BOARD NO. 17
April 23, 1958
(Local Board Stamp)
New York 11, N. Y.

QUESTIONS TO BE ANSWERED BY A REGISTRANT CLAIMING TO BE A CONSCIENTIOUS OBJECTOR AND/OR MINISTER OF RELIGION

Date: April 23, 1958

Arno Sascha Jakobson (Registrant's Name) — 50-17-35-417 (Selective Service No.)

1. How does registrant earn a living?
   By working as a clerk—mailboy in an art museum
2. Describe secular employment:
   a. Type of work
      clerk—mailboy
   b. Hours
      Mon.-Fri., 8:45-4:30
   c. Wages
      $2900 per annum
   d. Name of Employer
      Metropolitan Museum of Art
3. What was registrant's income from secular employment during the past 12 months?
   gross $3201.44 in 1957; gross $725.04 till March in 1958
4. Does registrant preach and teach the principles of religion? No.
   a. If so, how many hours a month?
   b. How many members are there in his Congregation?

c. How many other ministers are there in his Congregation?

5. Give title, or titles, if any, registrant holds in his Congregation and submit certification of such assignment. I do not belong to a religious organization.

a. Is registrant a Pioneer? If so, submit certification from Watchtower Bible and Tract Society

b. How many other Pioneers in his Congregation?

c. List number of hours reported to Watchtower Bible and Tract Society as spent in Pioneer Ministerial duties each month for past three months.

[fol. 106] 6. List all ministerial duties performed over past month and hours devoted to each duty. None.

a. How much of registrant's time over the past month was devoted to selling or distributing literautre? None.

7. With regard to conscientious objection, state under what circumstances registrant believes in the use of force. See attached sheets.

8. Is registrant's conscientious objection based upon the views of the Watchtower Bible and Tract Society as expressed in the pamphlet "Neutrality" and the article "Why Jehovah's Witnesses are not Pacifists"? No.

9. Will registrant participate in any war that he understands is authorized by Jehovah? No.

10. Does the registrant believe in the use of force in defense of: himself? his religion? his family? his brethren? his home? his Government? his Country? See attached sheets.

11. Is registrant's conscientious objection based primarily upon his desire to preach or upon his unwillingness to use force? Unwillingness to use force.

SSS-N.Y., City
Form No. 54
(Revised May 1957)

Selective Service System
LOCAL BOARD NO. 17
May 6, 1958

[fol. 107] *Question seven.*

It is difficult for me to generalize about the use of force, as each situation invariably has its own extenuating factors which make it unique. However, I believe that I might be able to say that I might believe in the use of force in some situations when the force would be non-violent. Some examples of such non-violent force that I can think of are: (1) physical restraint of a person about to do some harm, (2) ecnomic boycott, (3) the force of firmly voiced and adequately presented moral opinion, (4) the force of reason and acts of love and kindness, etc. In keeping with my convictions, I would want to limit my advocating of force to the advocating of such non-violent force only, whatever the circumstances.

There are often suggested those situations, hypothetical or otherwise, where there is a relative lack of extenuating circumstances, and in which some substantial harm would result from complete inaction: for instance, a maniac breaks into a home and is about to murder its inhabitants. Even in such situations I would want if possible to limit the use of force to such force as is not likely to cause death to the murderer; the purpose of force being preventative. I would want to use physical restraint, reasoning, etc. And if this were not possible; if for some reason the only way I could prevent harm from occuring to the innocent family is by using violent force? Then I would just have to decide then and there how best to live up to my convictions, as outlined in my answers to form 150. I don't know how I would react. Perhaps I would be sorry afterwards no matter which choice I made. The question involved here seems to be just exactly where I would draw the line between wanting to act in one way and wanting to act in another. I don't know exactly where this line ought to be drawn. But I can say that some criteria that I would want to apply to the question are the following:

(1) Is it at all possible to avoid the use of violence and [fol. 108] still prevent harm? In accordance with my con-

victions, I would want to avoid the use of violence in every case, whenever possible.

(2) Would the violence involved affect innocent people, who would be sacrificed as a means to an end? I could never and would never advocate such actions in any circumstances, no matter how few the sacrificed individuals, no matter how "great" the purpose, as I believe that all individuals have great worth, and that no individual's life is so worthless as to make him fit to be a statistical sacrifice of the Hiroshima type.

(3) Would my actions be freely made? I believe that the use of force against another human being, whether it be violent or otherwise, is a most serious thing, and that an individual who decides to use such force is making a most serious decision, one that ought to be freely made each time.

(4) Would my actions be involving others? A negro in some parts of the south today, for example, has to consider that he would possibly be involving his whole race in violence when he commits an act of force.

(5) Would the use of force in the particular situation involved be likely to have the pernicious effect of increasing the likelihood of a continuation of violence, either by "setting off" hostilities, or by aiding and strengthening that moral atmosphere in which violence is so easily bred? I believe that violence under almost any circumstances is likely to breed further violence, and I certainly would not allow myself to commit an act of force of any kind which would not to the best of my belief lead to a diminishing of the chances for further violence.

But even if all the proscriptions of these criteria would not be violated, I cannot say *exactly* where the line ought to be drawn. However, with regard to conscientious objection, it is more meaningful that I believe that I *can* say that I would never, under any circumstances, advocate the ~~form~~ of violent force known as war. War is, in my belief, avoidable; it does necessarily involve the death of countless innocent individuals; it does involve being under [fol. 109] "orders" to kill; it does involve many others besides those who are doing the "forcing"; and it does,

in my belief, have the pernicious effect of strengthening the moral atmosphere that breeds more violence. I also believe that in the war situation the greatest evil involved is always war itself; in my opinion the better way to combat evil is by non-violent methods. I believe that these attitudes toward war and the use of violent force in general stem from my religious convictions which lead me to ascribe the highest sanctity to life and to the dignity and worth of the individual.

Question ten.

Not belonging to a formal religious organization, I believe that some of these categories do not apply to me. As for the others, I would have to say that my answers would depend on (1) what the situation in its entirety was, and (2) what kind of force would be involved. I believe that in my case, the answer to question seven includes the information that is required of question ten.

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SELECTIVE SERVICE

OFFICIAL BUSINESS

- ☐ Unclaimed.
- ☐ Person unknown
- ☐ Deceased.
- ☐ For better address.
- ☐ Moved-left no address.
- ☐ Refused.
- ☐ No such address
- ☐

POSTMASTER—If not delivered in 10 days, please check reason for non-delivery and return to

Irma Jakobsen
111 Ellwood St
New York 40, NY

(Stamp of Board or Address of Sender)

CERTIFIED MAIL No 889452

POSTAGE AND FEES PAID
SELECTIVE SERVICE SYSTEM

NEW YORK N.Y. P M (SSS-553) 63

SPECIAL DELIVERY

Selective Service System
LOCAL BOARD NO. 17
321 West 44th Street
New York , N. Y.

SPECIAL DELIVERY

Selective Service System
Local Board No. 17
New York City
AUG 6 1963

[fol. 110]

13

[fol. 111]

[fol. 112] IN UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT'S EXHIBIT No. 31

December 9, 1958

Selective Service System
Local Board No. 17
321 West 44 Street
New York 36, N.Y.

Dear sirs:

I hereby request that the following statement be included in my record with regard to Conscientious Objection:

This is to notify the board that I now wish to formally change my claim from a request for 1-A-O to a request for 1-O.

My views upon these matters were not adopted en toto, but were formed and developed over a period of time. Since the time when I handed in my form 150, I have continued to reflect on these things; and I now find that I cannot with a clear conscience allow myself to participate in *any* form of military service.

I now feel that *any* such participation would represent a destinct compromise with my values and convictions. I would be involved in too many situations and relationships that would be a strain on my conscience that I feel I must avoid; for example:

I feel that I must be willing and able to help all individuals that need help in any situation. I could not with a clear conscience limit my services as a medic to one side.

Even as a medic I would be making a positive and concrete contribution to military aims, aims with which I am opposed in my convictions.

I cannot give up the moral responsibility for my actions to professional soldiers, especially during situations in which such responsibility is so important.

I cannot allow myself to condone publically by my par-
[fol. 113] ticipation an institution which is based on fundamental values, convictions, and action-patterns that are so diametrically opposed to my own.

Please accept this letter as a formal request for a change in claim. Thank you.

/s/ Arno Jakobson

Selective Service System
LOCAL BOARD NO. 17
December 9, 1958
321 West 44th Street
New York 11, N. Y.

[fol. 114] The 43 pages of notes presented here are reflections on religion that I wrote recently for my own sake. Though not all of what is written here is *directly* apropos of questions that representatives of Selective Service will be primarily interested in, it does represent my general feelings on these matters, and it therefore may concievably be of some use to someone with regard to a decision on my case. I would therefore like it to be included in my record for what it is.

/s/ Arno Jakobson

#50-17-35-417

Selective Service System
LOCAL BOARD NO. 17
December 9, 1958
321 West 44th Street
New York 11, N. Y.

[fol. 115]

IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT'S EXHIBIT No. 32

Due to my Conscientious Objection, I find myself in the difficult and highly annoying position of having to sum up my religious views. Just why do I feel the way I do about human life? How do these things constitute "religion"? It is unfortunate to have to attempt something at 23 which would normally involve a Lifetime's slow development. But; now is when the problem has presented itself.

No formal religious affiliation, no minister's influence, no Bible, no demonstratable history of verbal expression of my ideas; and yet I dare to claim that my Objection has its basis in "religion". The question is: how? I will not be so foolish as to expect to be able to write down a complete and unified answer here. But if I put down, as best as I can, all the thoughts that I may already have on these matters, as those thoughts occur to me; I may yet succeed in making clear the essence of my position, however fragmentary and *incipient* that position may be at this time.

* * * *

1.

I suppose I had better begin by making some general points, which will serve as a foundation for what will follow.

First; what do I mean by "religion"? To me, religion refers to the *sum and essence of one's basic attitudes to the fundamental problems of human existance.* It refers to the relationship that one feels oneself to bear to the Universe; it refers to one's basic "attitudes to Life".

More specifically, it refers to the Answers that an individual evolves to such questions as: "What shall I choose as my fundamental purposes in this Life, considering my human and particular Conditions and Limitations?" What obligations do I have to myself? to those

close to me? to Mankind in general?", "What shall my attudes to the Evil in society be?", etc. In other words, by religion I mean the vital (in the sense of how much [fol. 116] they affect one's Life) attitudes that an individual comes to accept, as his conception of the nature of Reality develops, toward the major human dichotomies of Life vs Death, Good vs Evil, Order vs Chaos, Willfulness vs Fate, Self-Assertion vs Self-Transcendence, etc. Religion, then, refers to the *subjective* attitudes of people to the Givens of Existance.

2.

What is Godness? Godness is That Which is the Ultimate Cause for the fact of the Being of the Universe. Is there Godness? Of course there is Godness; to deny that is equivalent to denying the fact of the Being of the Universe. Therefore once one affirms the fact of the Being of the Universe, one automatically affirms Godness. For anything that Is, has an Ultimate Cause for its Being. What is the nature of Godness? No one can know. Is Godness Within the Universe, and synonymous with the Totality of the Universe? Or is Godness Outside the Universe? No one can know. Does Godness relate directly with human beings? No one can know. All these questions are Speculation. And all their human concomitants —like the question of an Afterlife—are Speculation.

In the traditional conception of religion, an individual accepts A,B, and C to be True about "this World", and D,E, and F to be True from among the many Speculative possibilities concerning "the Next". On the basis of these, he forms (or accepts) his fundamental attitudes to Life X,Y, and Z. In the non-dogmatic conception of religion, on the other hand, an individual forms *his* fundamental attitudes X,Y, and Z only on the basis of the A,B, and C that he feels to represent the limits of what he, as a human being, can know.

3.

But the problem of the individual's relationship to Godness doesn't only exist on the intellectual level. It also exists, and primarily so, on the level of "feelings". Therefore, I would like to consider now, in some detail,

[fol. 117] one aspect of the Self-Transcendent feelings of Man: the question of the Basic Transcendental Relationship, as it applies to the non-dogmatist.

Aside from the many transcient but concrete relationships that a person forms and feels himself to have during the course of his Life, he also comes to evolve a feeling of more fundamental, though abstract, relatedness—a feeling that is not dependent upon the particular circumstances of his Life, but one that is always with him, that is part of what he means when he says "I", that is a meta-conscious in nature. The Self does not exist in a vacuum; it exists in a World. It exists as an integral part of a World. And because of our human powers of reason, intellect, and sense; this "related" status of the Self does not only exist as an objective fact, but also as a subjective set of feelings within the individual. The Self is always felt as something that bears certain, fundamental, *definitive* relationships to things outside of itself. These felt fundamental relationships perform the psychic function of ascribing to the individual a position in the Order of things. Among these meta-conscious feelings are the feelings of relatedness to Godness, to that Ultimate Principle from Which our Order, in all its particular aspects, springs.

This felt Transcendental Relationship to Godness can point in two directions from the Self: vertically, towards Godness directly; and horizontally, towards Godness through Mankind and the World. In the vertical Transcendental feelings, the Self is felt to bear a direct, one-to-one relationship to Godness, though (especially in the case of a non-dogmatist) the other end of this relationship is often felt as a vague, amorphous, unpinpointable "something". In the horizontal Transcendental feelings, the Self is felt to bear an indirect relationship to Godness: a relationship whose vital current is forced to move through the entire human and natural World that surrounds the subjective Self; a relationship whose vital current can never reach Godness fully and directly. It may [fol. 118] be compared to the waves that emanate from a pebble dropped into a sea: they will slowly spend their energy as they move further away from the center, and will be prevented by their very Limitations from ever

reaching the Shores; especially when their progress is further impeded by the complications resulting from other waves emanating in that same sea from 250 billion other pebbles dropped near the first one.

I tend to believe that both these fundamental Transcendental feelings are at least potentially present in all people. But my point is this: that these two feelings tend to be mutually exclusive; that one of them tends to be primary in a given person over the other; that perfect equilibrium between them is rare if possible at all; that their respective strengths in the psyche vary inversely with each other. In other words; the more one senses a direct, one-to-one relationship to Godness, the less one will sense a concrete relationship to Mankind and to the World, and vica versa. Why do I make this generalization? Because each one of these fundamental Transcendental feelings is co-existant with a qualitatively different view of Life; and it seems to me that each one of those views of Life is of such nature as to be incompatible with the other, and thus with the Transcendental feelings that go with that other.

What is the "view of Life" that is co-existant with the vertical Transcendental feelings, and why?

In the vert. Trans. feelings, the primary relationship that the individual feels himself to have as a Being is a direct, one-to-one, *realizable* relationship to Godness. In his very meta-consciousness, such an individual is conscious of his Self as being *predominantly and primarily* an entity that exists before Godness. All human and natural relationships that he bears are felt to be secondary to this Basic Relationship, from which he derives his Self-definition as an existant, and his Goal as a human being.

[fol. 119] But in order for a felt relationship to have such basic importance to an individual, it must be active and dynamic in nature. Important relationships can never be passive; they always tend to move on, to change. This is true even of these fundamental meta-conscious relationships. But how is a direct relationship to Godness to keep from becoming passive? As the individual involved is after all a human being existing under human

Conditions in this particular World, it would seem that such a relationship can only be passive in nature, as only mundane relationships, however abstract, can be dynamic in this "Euclidean World". This is true especially in the case of a non-dogmatist who might be possessed of these feelings; as for him prayer can only be interpreted as a behavioral *symbol* for a metaphysical urge, that would not cause the felt relationship involved to become, by vitue of such prayer, dynamic. Thus, the question is; how can an individual who is possessed of the vert. Trans. feelings cause his felt relationship to Godness to satisfy his urge to have all his important relationships be dynamic, to have them move towards further and further closeness?

But here is the "catch": in the above statement "the individual is conscious of his Self as being predominantly and primarily an entity that exists before Godness", it is important to notice that there are in reality three terms involved that are relating, and not only two. The three terms are: the subjective Self treated as a subject, the subjective Self treated as an object, and the Godness. The Self, in being "conscious of itself", is relating with itself; and above this relationship there is a third factor, the Godness, which is relating with the dynamics of the first two. Thus, in the vert. Trans. relationship, there are two concurrent relationships that are felt as occurring at the same time: one is the Self-Itself relationship that is implied in the fact of Self-consciousness; and the other is the "Transcendental" relationship between the Self-conscious Self and the Godness.

[fol. 120] How can the vert. Trans. Relationship progress towards further closeness? Since the whole process takes place on a subjective level in this particular World, the Godness itself is an invariant factor. Therefore any change that takes place in the relationship must be achieved with respect to the variant factor; that is, with respect to the Self-conscious Self itself. And this is exactly what happens in this situation: the active aspect of the vert. Trans. feelings is involved in the dynamics of Self-consciousness. It is achieved by means of a change that takes place in the Self-conscious Self itself, but one that is of such a nature that it is felt to bring the entire

Self-conscious Self closer to Godness. How does this change in the Self present itself to the individual involved? It presents itself as a Self-imposed, ever-continuing *psychic emphasis on Spiritual Growth.*

Now, without going into a detailed discussion of what I feel Spiritual Growth *really* to be, I will be satisfied to indicate only that I believe that Spiritual Growth is a dynamics involving the attainment of Truth (with the capital T emphasized), and that in the case of an individual who is possessed of the vert. Trans. feelings, this dynamics usually presents itself as the effort to "understand God's Ways" as taught to the Self through its reactions and relations with "Life". And this leads to the point which was the goal of the entire above discussion: that to an individual in whom the vert. Trans. feelings are primary, the important factor of *all* human and natural experiences is *how those experiences contribute to the individual's Spiritual Growth.* All experiences of such individuals are subjected—though perhaps not always on a conscious, verbalized level—to this criteria; for Spiritual Growth, in this sense, is *the* means whereby the most important meta-conscious Relationship that the individual feels himself to possess can become active. In this way, the vert. Trans. feelings, when primary, result in a kind of psychic *shift of emphasis inward* as far as all mundane relationships are concerned. It is this inward shift [fol. 121] which affects and conditions such an individual's "view of Life" in such a way as to give it its general character.

How does Life seem to present itself to such an individual? From my experiences with people who feel the vert. Trans. Relationship most strongly (mostly Christians); I would say that it is *as if* the World presents itself as being a kind of highly advanced, 360-degree movie screen that continuously surrounds him, shoving more-or-less clear images "at him" every so often from out of a more-or-less hazy "background area". It is *as if* these images and this screen were put there, with a conscious purpose "in mind", for his sake, in order that he have something to "cope with" during his stay on earth. It is *as if* his freedom were given him just for this

activity, for his use in his free determination of the direction of his Spiritual Progress.

I do not say that such individuals necessarily think in these terms; I am only trying to present some analogies to show how I tend to think they *feel* about this life. The feelings I have in mind are not so much conscious ones as they are meta-conscious ones; that is, they serve to determine the structure of consciousness itself. . . .

It seems to me that this kind of egocentricity is as inherent in a psychic emphasis on Spiritual Growth as such a psychic emphasis is inherent in the vert. Trans. feelings. And it also seems to me that it is perfectly natural for the dominant attitude towards "life" (that is, towards the outside-of-himself) to evolve into a kind of passive "non-differentiation", a kind of lack of *vital* interest in just what sort of movie happens to be playing at any particular point. The emphasis is removed from the idea of changing our mundane surroundings for the better, and is placed instead on the "putting up with" whatever "Life" (which has lost its 3-dimentional quality and assumes instead a 2-dimentional "movie-screen" quality) happens to "offer". What is important is not so much what sort of experiences that one has to cope with, but rather *how* one has coped with *whatever* there was *for* [fol. 122] him. Such people usually develop an unusually harmonious and "philosophical" attitude toward the major (and minor) events of their lives, something that is often misinterpreted as a sign of "strength of character". Does tragedy strike?—"Aha, I percieve then, that my child was run over by a truck; I also percieve that I tend to feel a great sorrow and emptiness inside myself because of this latest unfortunate development: it is this that I must bear next, then, as the Lord giveth and the Lord taketh away . . .". Or does a happier turn of events take place?—"Aha, I percieve then, that my financial problems have been eased considerably by this new job; indeed, it would tend to seem to appear that I can reasonably expect (in all probability), a period of emotional relaxation now during which I may be able to look forward to facing some of the subtiler aspects of Life; and Blessed is the name of the Lord. . . ." Or perhaps there happens

to be a War going on?—"Aha, I percieve then, that there is a War, and that men are butchering each other; and I percieve that all this tends to disturb and frighten me indeed. I also percieve that I am now a soldier, on such and such a side, whose purposes for being on this particular side have been justified by such and such rationalizations; my functions as a soldier require me to behave in such and such ways, which would impose such and such emotional and tactical difficulties upon me. It is these difficulties, then, that I now must cope with, and Blessed is the Name of the Lord, who knoweth all. . ."

It is obvious from the form of my analysis and from what I have said before, that I reject, for myself, the idea of a vert. Trans. Relationship, with its feelings of a direct, realizable relation with Godness that can "detour" the World. The first reason that I reject these feelings is that they imply, when translated into conceptual terms, a kind of knowledge about the nature of Godness that is unknowable under the human Limits. It seems to me that it is important to always attempt to achieve, whenever possible, some sort of harmony between the intellect and the feelings—especially in cases where one of these is to [fol. 123] serve as a springboard for behavior. If an individual is going to *feel* towards Godness as if Godness were (1) separate from and outside of the Universe, (2) an entity that is directly approachable as a point, (3) an entity that is *directly* concerned with human beings as such; and if he then is going to base the fundamental character of his behavior on the feelings; then he ought to be able to posit these characteristics with some degree of certainty in his verbal conceptualizing. Or if he finds that his reason will not permit him to do so, then he ought to make some sort of effort to not base his behavior on his feelings. His alternative, if he consciously allows such a split between his intellect and his feelings to remain unresolved, is to claim that "the feelings can grasp a higher Truth than can the intellect", or some such theory, in which case all his conceptual opinions should become meaningless to him, as any of them could be denied by the same criteria.

The second reason that I reject the vert. Trans. feelings is that they foster an illusary "2-dimentional" view

of Life, which precisely deminishes the possibility of the achievement of the primary Goal of such an individual: Spiritual Growth and subsequent *real* approachment towards Godness. The vert. Trans. feelings are self-contradictory because for the sake of Spiritual Growth they induce one to assume an attitude towards mundane events that makes such Growth impossible. Spiritual Growth is a dynamics that reaches towards Wisdom; and Wisdom itself is a dynamics that reaches towards Truth: Truth with the capital T emphasized to connote the sense of Truth of the unity of things (as opposed to Knowledge, which connotes Truth more in the sense of separate facts.) A true yearning for "Spiritual Growth"—though it too may not exist primarily on the intellectual level—can be thought of as being a yearning that has as its "Star" the Star of Truth, which, like all Stars, can be approached but never quite reached. And, certainly, approaching Truth in this sense does bring one "closer" to Godness, as [fol. 124] it brings one closer to that which Godness is Ultimately responsible for: the Order in the Universe.

If this is more or less correct, then it follows that the prerequisite for the attainment of this "direction of physical change" is above all an intense and vital "pyschic involvement" (as opposed to a mere behavioral involvement) with Reality *as it really is*—with the 3-dimentional World around us; as it is Truth about that World that is the aim. But the dynamics of the vert. Trans. feelings—of the sensing of ones primary relatedness to be towards Godness—presupposes not an involvement with Reality as it is, but only an involvement with reality *as it strikes us.* Such a person does not see the events of his Life in all their 3- dimentional physical and social complexity; because so much of his vision is turned inward, he sees his experiences in a more personal context—as a series of events that are happening *to* him. In other words, he sees a 3-dimentional World in a 2-dimentional way. One cannot attain to Wisdom and Truth with such an outlook; at best one can attain to a kind of emotional equilibrium. And this is the aim not of Spiritual Growth but of psychological growth. It is not difficult to see how a person can be a devout Christian who posits "Brotherly Love" (by which he usually means

not just mere human concern and feelings of existential relatedness, but actual *Love*—Love for all people), and still be able to allow himself to be swept into a contemporary War situation which makes the days of the Roman Circuses look like the Peaceable Kingdom by contrast. Such people do not achieve Spiritual Growth; they do not attain to Wisdom and Truth; they merely manage to find Harmony in Discord, to find Peace Of Mind in a civilization of bestial destruction. And what is this but the aim of psychology?

And so, for both objective and subjective reasons, I reject such a primacy of the vert, Trans. feelings. This is not surprizing in view of the way I feel about Godness. To me, the Ultimate Cause for the fact of the Being of [fol. 125] the Universe is something too vast, too unknowable, for there to exist a valid basis for the primacy of the vertical Transcendental feelings. As a human being with human limitations, I feel that I cannot try to approach Godness without first going "through" the World. It is mainly for these reasons that I have up-till now rejected Christianity—even in its "liberal" forms—as a basis for my religious feelings. For such a primacy of the vertical Transcendental feelings has always been *the* differentiating aspect of Christianity; to use the word in any other sense seems to me to be an anomaly.

When the horizontal Transcendental feelings are felt to be primary, on the other hand, there is no fundamental, extra-sensory factor present in the individuals consciousness which would have the effect of retarding his "vital" psychic involvement with the Reality that surrounds him, *as it really is*. His primary meta-conscious relatedness is felt to be towards Mankind—that is, towards all the living, concrete human beings in the World—and towards nature—that is, the Universe; that infinite, mysterious medium in which those living, concrete human beings represent "blips", little concentrations of consciousness. Hence there is nothing that would automatically distort his view of Life. As the World *is* 3-dimentional in nature, so is it *felt to be* without the distorting presence of the vertical Trans-

cendental egocentricity. It is not Life as it strikes him that is emphasized by such an individual, but Life as it is. The World does not present itself as if it were a 360-degree movie-screen that surrounds the individual in his Self-Godness relationship. It presents itself as if it were a Globe in a Universe upon which he and 250 billion other "blips of consciousness" live under certain existential conditions. Such an individual, who finds himself at the subjective center of such a World, does not emphasize, in his mundane relationships, the "Spiritual Growth" he can "get" "from them". Rather he emphasizes those experiences themselves, in all their concrete and complex, 3-dimentional, categorical and normative reality. His mundane experiences are vital ones, [fol. 126] as they are expressions of what he feels to be his fundamental Transcendental Relatedness. And, ironically, this very fact, which allows his worldly relationships to be full and well-proportioned, ultimately provides the possibility for the actual attainment of that which has not become an obsession to him: Spiritual Growth.

It is through this very relating to this motley, 3-dimentional World that he relates to Godness. For there are ways for the individual to get "closer to Godness" *in his mundane relationships*. He can get closer to Godness when he is concerned with those aspects of Reality that are nearer to being Universal and Inherent in the physical, chemical, biological, and psycical Conditions. When an individual looks about him "at Life" from his subjective point of view; he finds it valid to think of some aspects of what he sees as being more or less Given in existance, and others as being more or less Man-made. It may be that there is a Particular aspect to every Universal in Existance, and vica-versa; and that "the lines are difficult to draw". Yet, when the individual is dealing with such things as Life, Death, Health, Talent, Love, Time, etc., he is dealing with things that are primarily Given in Existance; while when he is dealing with such things as politics, economics, fashions, etc., he is dealing with things that are primarily Man-made and transitory. True, it is just a matter of "looking at one thing in two different ways".

But that is just the point; a man who happens to be saying: "In choosing a career I intend to place more emphasis on concrete usefulness to Mankind that on economic or social rewards; as in this Life . . . etc.", is relating more closely to Godness that another man who at the same moment somewhere else happens to be saying: "I wonder if I should buy a Ford this year or save up for an Oldsmobile instead. . . ." And a man who says: "I will not allow myself to be inducted into the armed services because of the way I feel about human Life . . . etc.", is relating more closely to Godness than a man who says: "I wonder if they'll send me overseas; I always did want to travel. . . ."

[fol. 127] I am not trying to imply any derogatory value judgments against Particularistic thinking. Far from it; such thinking is one of the most necessary and satisfying and human aspects of daily living. I am merely trying to hint at a qualitative subjective difference between Particularistic and Universalistic thinking. I am saying that I believe that the more closely one relates to the Universals and Essentials in Life, the nearer one comes, psychically, to that essential Order in the Universe that is so closely connected with the concept of Godness. This is how an individual can relate, though indirectly and incompletely, with Godness "through the World." And, incidently; this is also the basis for what is known as the "religious conscience", as that term applies to a non-dogmatist. A man is obeying a "higher law" than a social or legal one when he is basing his actions on attitudes that stem most directly from the way he feels about the basic Givens in Life. And so I come back to my original definition of "religion".

4.

But now the crucial question arises: Just how do these views lead me to Conscientious Objection? Now that I have rejected for myself both the idea of dogma and the vertical Transcendental feelings, what is there left? Isn't there some basic differentiating choice involved somewhere in my views that would be compara-

ble to the traditional idea of the Acceptance or Rejection of Christ? (or Buddha or Mohammed or whatever the case may be?) If one's "religion" were merely the sum of his fundamental attitudes to the basic problems of human existance, then it would necessarily follow that there is no such thing as non-religiousness; as everyone must have some fundamental attitudes, whether they are conscious or not. That may be true, but all the same, is there no primary "either/or" choice available to the individual who posits no dogma and no vertical Transcendental feelings, the answer to which would provide the foundation for all his other religious attitudes?

I believe that there is such an either/or choice involved [fol. 128] in religion; and furthermore, I believe that this either/or choice has to do with the Acceptance or Rejection of something, as it does in the traditional concepts. In a traditional religion like Christianity, the individual finds himself faced with a certain kind of *description of the nature of the human and natural Universe;* a description which includes the results of observation, of reason, of dogma, and of revelation. In being confronted with this religion, with this descriptive matter, he is being told in effect: "This, categorically and normatively, is what the Universe is all about." In being urged to take this religion "into his heart; he is being asked, in effect, to *Accept the World.* That is, he is not only being urged to agree that "yes, this is what the World is all about"; he is also being urged to Affirm the World psychically, to say a kind of subjective, metaconscious "yes" to the whole business, to feel himself to be an integral and *willing* part of this Order. Behavior and attitudes that are consistantly anti-Christian are connoted with a Rejection of the religion itself; from a Christian point of view, anti-Christian behavior and attitudes are interpreted as a Rejection of *the* Order of the Universe, as an unwillingness to play a willing part in *the* Order of things. And from this Christian point of view, such an interpretation is quite valid.

In my own "non-dogmatic" views, the individual finds himself confronted with the same two kinds of possibilities. He can Accept the World psychically, or he can Reject it. Only, of course, by the term "the World" is now meant a different set of descriptive matter.

These concepts can best be illustrated by referring to a novel whose central problem happens to be just this point; Dostoevski's "The Brothers Karamazov". In this novel this question is illustrated mainly by the sharp contrast presented between the character of Ivan on the one hand, and Alexy and Zossima on the other. Aside from their other functions in the book, they may be thought of as being personifications of each of these two basically opposed attitudes toward Life. That this was meant to be the central problem of the book is il- [fol. 129] lustrated by, among other things, the fact that the "action" of the novel is halted at the most crucial point—just before the murder—to allow for the presentation of about 100 pages of discussion, half consisting of Ivan's remarks to Alexy in the tavern, and the other half consisting of Zossima's death-sermon. And what was all this discussion about? It was about what I have called "religion", about fundamental attitudes to the basic problems of human Existance; or, as Dostoevski himself put it, about "the eternal questions". It was "about" the basic either/or choice between Accepting and Rejecting Life.

One important point to notice in the two viewpoints presented is that they are both based on the same picture of Reality, the same view of "the World". Both saw the same human Conditions of Existance, the same civilization, the same Goods and Evils in people and in society. But each came to different psychic conclusions on the basis of this "the World" that they both saw. In this way, the novel illustrates the fact that this basic choice is not directly dependent on ones view of Reality itself; that it is a problem that exists on the subjective level only.

Another important point to notice is that their respective choices were basic ones; not existing merely on an intellectual "opinion" level, but permeating their

whole consciousness, affecting every aspect of their lives, coloring everything that they felt or did. In this way the novel illustrates the fundamental character of this choice.

This question, then—the choice with which every individual is confronted of either Accepting or Rejecting the Order of the Universe as it presents itself to him—is to me the basic problem of religion. My own attitudes of Conscientious Objection spring directly from my own position, my own "answer", to this question.

What does psychic Rejection of Life mean?

To answer this one needs hardly do more than to ex- [fol. 130] amine the position of Ivan that is presented by him in the tavern, as this is such a fully developed expression of the extremes of this position. It is important to bear in mind, however, that Ivan is presenting his views to his truly Christian brother Alexy, and that he therefore presents them in a form which would be meaningfull to a Christian listener. It is not hard, though, to get to the bottom of his position:

> "and so I accept God and am glad to, and what's more I accept his wisdom, his purpose—which are utterly beyond our ken; I believe in the underlying order and the meaning of life; I believe in the eternal harmony in which they say we shall one day be blended. I believe in the Word to Which the Universe is striving, and Which Itself was 'with God', and Which Itself is God and so on, and so on, to infinity. There are all sorts of phrases for it. I seem to be on the right path, don't I? Yet, would you believe it, in the final result I don't accept this World of God's, and, though I know it exists, I don't accept it at all. Its not that I don't accept God, you must understand, its the World created by Him I don't and cannot accept. . ."

Ivan then goes on in the next chapter to present his "justification", so to speak, for this Rejection of his. He claims that he Rejects the World because of the Evil in it, especially as that Evil is epitomized in the sufferings of innocent children:

"But then there are the children, and what am I to do about them? Thats a question that I can't answer. For the hundreth time I repeat, there are numbers of questions, but I've only taken the children, because in their what I mean is so unanswerably clear. . . . I understand solidarity in sin among men. I understand solidarity in retribution, too; but there can be no such solidarity with children. And if it is really true that they must share responsibility for their fathers' crimes, such a truth is not of this world and is beyond my comprehension. Some jester will say, perhaps, that the child would have grown up and sinned, but you see he didn't grow up, he was torn to peices by the dogs, at eight years old. Oh, Alyoysha, I am not blaspheming! I understand, of course, what an upheaval of the universe it will be, when everything in heaven and earth blends in one hymn of praise and everything that lives and has lived cries aloud: 'Thou art just, o Lord, for Thy ways are revealed.' When the mother embraces the fiend who threw her child to the dogs, and all three cry aloud with tears, 'Thou art just, O Lord!' then, of course, the crown of knowledge will be reached and all will be made clear. But what pulls me up here is that I can't accept that harmony. . . . You see, Alyoysha, perhaps it really may happen that if I live to that moment, or rise up to see it, I, too, perhaps, may cry aloud with the rest, looking at the mother embracing the child's torturer, 'Thou art just, O Lord!' but I don't want to cry aloud then. While there is still time I hasten to protect myself and so I reject the higher harmony altogether. It's not worth the tears of that one tortured child . . . because those tears are unatoned for. They must be atoned for, or there can be no harmony. But how? How are you going to atone for them? Is it possible? By their being avendged? But what do I care for avenging them? What do I care for a hell for oppressors? What good can hell do, since those children have already been tortured? And what becomes

of harmony, if there is hell? I want to forgive. I [fol. 131] want to embrace. I don't want more suffering. And if the sufferings of children go to swell the sum of sufferings that were necessary to pay for truth, then I protest that the truth was not worth such a price. I don't want the mother to embrace the oppressor who threw her son to the dogs! She dare not forgive him! . . . I don't want harmony. From love of humanity I don't want it. I would rather be left with the unavenged suffering and unsatisfied indignation, *even if I were wrong.* Besides, too high a price is asked for harmony; its beyond our means to pay so much to enter on it. And so I hasten to give back my entrance ticket, and if I am an honest man I am bound to give it back as soon as possible. And thats what I am doing. Its not God that I don't accept, Alyoysha, only I most respectfully return Him the ticket."

Ivan's attitude brings to mind Fitzgerald's quatrain from the Rubaiyat:

> "Ah Love! could you and I with Him conspire
> To grasp this sorry Scheme of Things entire,
> Would not we shatter it to bits—and then
> Re-mould it nearer to the Heart's Desire!"

And yet, psychic Rejection of Life in its totality does *not* mean a rejection of all the particular elements in it. A friend asked me recently, aghast at this possibility: "But Good God, how can a person go on living at all without 'accepting' Life?" Well, how did Ivan "go on living at all"? He himself answers that question:

> "Though I may not believe in the order of the universe, yet I love the sticky little leaves as they open in the spring. I love the blue sky, I love some people, whom one loves you know sometimes without knowing why. I love some great deeds done by men, though I've long ceased perhaps to have faith in them, yet from old habit one's heart prizes them."

Actually, of course, Ivan's position is not at all as pure as he is trying to make out to himself—there is even

at this point the beginnings of a split between his feelings and his intellect which is eventually to cause his psychological downfall. But Dostoevski's resolvment of the problems of Ivan in particular are not as important to me right now as his presentation—at this point in the novel—of the position of psychic Rejection of Life in such dramatic conceptual terms. How does a Rejector "go on living at all"? He goes on living because, though he can Reject Life in its totality, he can still at the same time, even without being able to explain why to himself, accept some of the particulars of that Life: his loved ones, his favorite music, doing crossword puzzles, his favorite foods, etc. He can concentrate his psychic [fol. 132] energy around such several "points of interest". In this way "Life" is possible as long as *some* relationship with *some* of these points is available.

It can be seen—to jump to another aspect of this position—how it can hardly seem worthwhile for such an individual to spend much time and energy in actively Upholding and protecting whatever is Good in his particular civilization. If Life itself is Rejected as being basically unworthwhile except for several "points of interest" in it, it can hardly seem worthwhile to spend ones efforts in opposing the particular Evils with which ones particular society abounds, especially when so much of ones psychic energy is directed to those points. I would think that such a person is likely to remain fairly passive and uninterested in the "vital currents" about him, except perhaps when some of those "vital currents" happen to affect one of his "points of interest". As for my friends aghast question as to how such a person can go on living at all; I would tend to believe that the great majority of thinking people in contemporary society manage to "go on living" in this manner. In fact, it can easily be argued that, statistically speaking, this is a natural characteristic of over-large societies that are going through an extended and highly destructive period of cultural Transition. Anyway, I tend to believe that Rejection is by far the more popular of the two.

What is psychic Acceptance of Life?

Again, the Acceptance presented in "The Brothers Karamazov" is an Acceptance of the Christian "the World" (though it is a highly purified Christianity, to be sure), and it is presented through the mouth of a character who can only be described as "a true Christian" in every sense of the word. Yet it is possible to look for what is essential subjectively in Zossima's words:

> "'Gentlemen,' I cried suddenly, speaking straight from my heart, 'look around you at the gifts of God, the clear sky, the pure air, the tender grass, the birds; nature is beautiful and sinless, and we, only we, are sinful and foolish, and we don't un-
> [fol. 133] derstand that life is heaven, for we have only to understand that and it will at once be fulfilled in all its beauty, and we shall embrace each other and weep.'"

Zossima's Acceptance of Life is as extreme as Ivan's Rejection of it:

> "Work without ceasing. If you remember in the night as you go to sleep, 'I have not done what I ought to have done,' rise up at once and do it. If the people around you are spiteful and callous and will not hear you, fall down before them and beg their forgiveness; for in truth you are to blame for their not wanting to hear you. And if you cannot speak to them in their bitterness, serve them in silence and in humility, never losing hope. If all men abandon you and even drive you away by force, then when you are lift alone fall on the earth and kiss it, water it with your tears and it will bring forth fruit even though no one has seen or heard you in your solitude. Believe to the end, even if all men went astray and you were left the only one faithful; bring your offering even then and praise God in your lonliness. And if two of you are gathered together—then there is a whole world, a world of living love. . . ."

Both Ivan and Zossima recognize the same World about them, the same personal and social Goods and Evils. But while Ivan Rejects Life on the basis of what they both see, Zossima Accepts Life on that basis. Zossima gives the same emphasis to the special problem of children; only from the point of view of Acceptance it comes out like this:

> "The peasants are rotting in drunkeness and cannot shake off the habit. And what cruelty to their wives, to their children even! All from drunkeness! I've seen in the factories children of nine years old, frail, rickety, bent, and already depraved. The stuffy workshop, the din of machinery, work all day long, the vile language and the drink, the drink—is this what a little childs heart needs? He needs sunshine, childish play, good examples all about him, and at least a little love. There must be no more of this monks, or more torturing of children, rise up and preach that, make haste, make haste!"

Zossima's death scene clearly demonstrates how much the old monk loved Life:

> "He seemed suddenly to feel an acute pain in his chest, he turned pale and pressed his hands to his heart. All rose from their seats and hastened to him. But though suffering, he still looked at them with a smile, sank slowly from the chair on his knees, then bowed his face to the ground, stretched out his arms and as though in joyful ecstasy, praying and kissing the ground, quietly and joyfully gave up his soul to God."

But the important point as far as this paper is concerned is what does Acceptance mean from a non-dogmatic viewpoint, from a non-Christian position? Or, more accurately, what does Acceptance mean to me? [fol. 134] The psychic Acceptance of Life means the psychic Affirmation of the basic Blessedness, the basic Goodness, the basic "Yes-ness", of the fact of ones Being in this World, "in spite of it all". It is psychic in the sense that it exists primarily as an integral part

of the "I", as a continuous characteristic of meta-consciousness. And, of course, by "the World" I mean the "the World" as it appears to a non-dogmatist; that is, what one Accepts does not include such Speculative possibilities as heaven and hell, reincarnation, nirvana, etc. It only includes what this particular Existance offers to those who are in it.

5.

It is completely invalid to make any value judgments as to the absolute superiority of either one of these positions over the other. It is invalid because each of these can only be criticized from either its own point of view or that of the other; there is no "outside" upon which to stand in order to compare the two positions. It is impossible neither to Accept nor Reject Life. And so any criticism has to be made either from the standpoint of Acceptance or from the standpoint of Rejection. All possible criteria are contained in whatever position the criticizer already happens to represent; that is, this choice preceeds, qualitatively speaking, all criteria. For example, take the position of Rejection. It cannot be automatically criticized as being shallow, as Ivan's remarks in the tavern clearly demonstrate. Nor can it be automatically criticized as being ignoble, as Ivan's remarks again clearly demonstrate (What could be more "noble" than Ivan's position in the tavern?). Nor can the position be criticized on Ethical grounds, for, as I wish to demonstrate later, the prerequisite for Ethics is the psychic position of Acceptance. Nor is it even valid to condemn Rejection on psychological grounds; it would be meaningless to say to an Ivan: "See here; your attitudes are essentially self-destructive and are not at all conducive to your general well-being and happiness!" For he would only reply with a benign [fol. 135] grin: "Yes, I know; isn't it wonderful?" No, any normative comparison of two possibilities requires the existance of an "outside" to both, and here there is no such outside; each position is a complete and self-enclosed system, each encompasses all of Existance within itself.

Then how does an individual come to represent and exhibit one of these positions as opposed to the other? And how does Change between them take place? The answer is that nobody knows; and moreover it is extremely likely that nobody will ever know. Not, at least, until the problem of the exact relationship between Free Will (which is posited on the basis of certain aspects of the fact of Self-consciousness) and Determinism (which is posited on the basis of certain aspects of the fact of statistics) is fully resolved.

6.

Having established that the psychic position of Acceptance means to me the total, psychic Affirmation of the basic Blessedness of the fact of ones Being in this World, "in spite of it all"; it now remains for me to try to indicate how this position led me to make my decisions as to Conscientious Objection. To do this, it is necessary to consider this attitude in more detail from several points of view, in order to examine some of the relationships that I believe exist between this position of Acceptance and certain related problems. To give each of these connections the thought and space they deserve would be impossible for me; yet, even at the risk of further fragmentation, it would be worthwhile for me to attempt a brief survey of some of these relationships, as they might occur to me, one by one:

(1) *Acceptance and passivity*—Acceptance does not mean passivity; it does not mean the equal acceptance of all the particulars of Life, even though it does mean the Affirmation of the Blessedness of the fact of Life as a totality. It does not mean the denying of the existence of Evil; it does not mean the acceptance of Evil. By my use of the word "Acceptance" I do not mean to imply the kind of pas- [fol. 136] sivity that is, for example, the logical subjective result of Mysticism (in its "pure" form of complete Self-Transcendence); which in reality is even more of a Rejection than even Ivan's, as it is a complete negation of the entire human level of Reality. Acceptance does not mean indifference to what is going on "out there." On the contrary, the very fact of the existance

of these two possibilities presupposes a very vital interest in what is going on "out there", as The Brothers Karamazov clearly demonstrates. Passive indifference is incompatible with a vital interest in Reality.

Then just what is it that one "Accepts"?

Acceptance is based on a subjective destinguishing between those aspects of Life that are Given and those that are Man-made. It is as if "Existance" and "Civilization" represented two different things. Actually, of course, they are not separate, but are merely two different aspects of the same thing; they are related to each other as Matter is related to its Form. Civilization is nothing but the Form taken on by Existance at any particular point of time. And yet, as I have said, there is a valid subjective basis for the differentiating between Existance and Civilization; as some aspects of Life present themselves to us as being more absolute and unchangeable and others present themselves to us as being more relative and changeable. The facts of Mortality, Corporeality, and all the other human Conditions, are absolute and unchangeable aspects of Life, while the political and economic systems prevalent at any particular point, fashions, and other things, are relative and changeable aspects of Life.

What is it that the Acceptor Accepts? He Accepts the Givens of Existance—"Life itself"—and he Accepts the fact of Civilization in general, and he Accepts those Forms of his particular civilization that are not detrimental but are conducive to the well-being of those Givens of Existance in all their concrete forms. To Ac- [fol. 137] cept Life is to Affirm the Worthwhileness of Life, Health, Talent, Reason, Love, etc.; and to simultaneously actively oppose those elements in Civilization which are detrimental to these as they exist in their concrete forms as characteristics of concrete people. Thus Acceptance is not equivalent to passivity, but rather involves a firm though compassionate opposition to Evil.

(2). *Acceptance and Brotherliness*—The point that I now wish to make is that the psychic position of Ac-

ceptance is inseparable from the attitudes that are commonly called by the terms "Brotherliness" and "Altruism". Anyone who expresses the position of Acceptance in his own Life will be automatically concerned with the Upholding the Lives of all other individuals in whom he recognizes the existance of the same subjective human Conditions that define and limit his own Being. He will feel an existential Brotherhood to all such individuals; and he will be vitally concerned with the Welfare of all. I believe that this connection is inherent in the nature of the position of Acceptance.

When the psychic position of Acceptance has been purged of all contradictions, when it has been integrated into the whole personality (and this process can be a complex one), it exists simultaneously on several "levels of Being"; specifically, on the meta-conscious, the emotional, and the cognitive. These are, in conjunction with that mysterious "something" called the Will, the conative foundations of behavior. What I mean by the "emotional" and "cognitive" levels is obvious enough. By the "meta-conscious" level I mean all those elements that are an integral part of the Self. The "I" does not exist as a pure, "undefiled", abstract entity. It exists as an entity that is modified and defined by a syndrome of characteristics. These characteristics are a continuous part of the Self; just as the Self itself is a continuous part of Being. They are "meta-conscious" in the sense that they serve as *axioms* and *first principles* that *set limits* upon the general nature of consciousness [fol. 138] itself. I believe that ones position as to the choice of Acceptance vs Rejection is one of these characteristics; and that it is on this level that this "choice" exists as an "either/or" one, that cannot be mediated. Any contradictions with regard to this choice must exist on the other two levels.

Why is Acceptance, when integrated into all three conative levels of Being, inseparable from Brotherliness and Altruism? This is a difficult question to try to answer in conceptual terms, and will require a bit of a digression as a foundation.

The Self exists in a unique, non-Aristotelian situation, in that it exists in total Isolation and total World-immersion *at the same time.* This is true of no other existant in this Universe than the human psyche.

The Self exists as an entity suspended in a World-sea. But because its unique nature as a "concentration of Self-consciousness", it exists in a condition of essential Isolation. Any entity, no matter in what medium it is situated, that can concentrate itself Within itself, can thereby isolate itself from the Without-of-itself. But as the fact of Self-consciousness—which is an inescapable and continuous aspect of Being—implies an ever-continuing concentration of the Self "Within itself"; as Self-consciousness consists of a relationship of the Self *with the same Self:* psychical Isolation is total and infinite. Thus the Self exists as an entity that is essentially separate from the World-sea that surrounds it.

That much has long been recognized in Western thinking. But that is only part of the situation. For the Self can exist only as an integral part of a Whole Person, and part of such a Whole Person are the powers of Will, Reason, Intellect, Emotion, and Sense. These are the Self's *chains to the World.* Because of these chains, the Self does not, and cannot, exist as in a vacuum. It can exist only as an integral component of the human and natural World-sea. It is born into a World-sea, and it if formed through the categories of that World-sea. It is [fol. 139] *nourished*—in every possible sense of the word—by the totality of the social and natural processes that make up the dynamic aspect of that World-sea. It is as if the Self were caught up in an immense, moving entanglement that stretches for miles around it on all sides. All that it can see clearly at first are the nearer parts of this entanglement, but as it grows in Wisdom it becomes more and more aware of the rest of it.

This aspect of the Self's Being—its essential immersion in the World-sea—is as total and infinite as its essential Isolation. As Self-consciousness implies a continuous and total Inwardness of Vision, so does Other-consciousness—which is as inescapable an aspect of Being as the former—imply a continuous and total Outwardness of Vision.

These two "psychical directions" do not "alternate" somehow with each other; rather they both manifest themselves infinitely *at the same time and all the time.* The Self is not only a total "I", but is also a total "We"; even though "I-ness" and "We-ness" stand in diametric contradiction to each other. The situation of the Self thus exhibits a blatant defiance of the Aristotelian dictum that "the same thing cannot be both A and non-A at the same time". This dichotomy exists not only as an objective fact, but also as a *subjective plight.* For the Self is condemned to Being in a state of perpetual dynamic disequilibrium between Self-Assertion and Self-Transcendence; a disequilibrium that must be both expressed and resolved at every moment. Every action, every thought, every feeling, every impulse, must in *some* way both express and resolve this existential dichotomy that can never be negated. In a sense, *the* essential characterizing factor of any particular action, any concrete person, and any general Culture—each on its own level—is *how* it expresses and resolves this dichotomy.

From a subjective point of view—that is, from the point of view of the subjective Self that is itself "caught up" in this situation—this metaphysical aspect of the human Condition presents itself in terms of two Truths [fol. 140] that are *potentially* capable of being grasped by an individual looking out at his World. The first Truth is the fact of the basic Oneness and Similarity of Essence that all "things"—all separate entities—share with each other, simply by virtue of their all being "things" in this Universe. It is as if the subjective Self exists as the acme and center of a hierarchy of existential Similarity that surrounds it. It may be compared to an immense spherical glassy container that is filled with tiny marbles all of the same color, with the qualification that the intensity of the color of these marbles gradually diminishes as they get further and further away from the center marble, which is the most intense of all. With some human beings the subjective Self feels an extraordinary Oneness and Similarity of Essence, with others it feels slightly less, and with still others still less. Thus the intensity of the color of the marbles diminishes; and yet it

remains true that they are marbles all, and all in the same immense container. This "gradation of relatedness" can continue on through the animal kingdom, and then through the plant, and then through the inorganic. Most often, however, this feeling of basic Similarity of Essence will be concentrated on the human level, as the unique experience of Self-consciousness seems to be limited to this Level.

The second Truth is the fact of the Inter-extensiveness of Change. Every living human being is, by virtue of his very being in this World, dynamically entangled in a web of interdependencies and interrelationships with every other living human being, and, to a lessening extent, with every other "thing" in the Universe. This web entangles us from the moment we are born until the last breath has come and gone. Each person's fate is intricately tied up with the fate of every other person, and, to a lessening extent, with the fate of every entity of the World. There is hardly a decision, thought, word, deed, or event that does not have, no matter how indirectly, a reverberating, wave-like effect upon the World at large. [fol. 141] This is especially true on the human level: for every man's life is at every moment his *Sermon to the World;* his publicly-displayed Choice from all the possibilities. People always have an effect on one another; no choice is ever really made in Isolation. Dostoevski has Zossima emphasize this Truth many times in his death-sermon:

> "Every day and every hour, every minute, walk round yourself and watch yourself, and see that your image is a seemly one. You pass by a little child, you pass by, spiteful, with ugly words, with wrathful heart; you may not have noticed the child, but he has seen you, and your image, unseemly and ignoble, may remain in his defenceless heart. You don't know it, but you may have sown an evil seed in him and it may grow, and all because you were not careful before the child. . . ."

This Truth means many things. It means that one cannot do the smallest act of kindness towards a single

child that doesn't concretly affect the whole World for the better. And, on another level, it means that one cannot fight in a single War that doesn't develop, nourish, and spread that moral and intellectual "atmosphere" which is both a necessary and sufficient condition for the breeding of more violence, of further destruction. . . .

These two Truths concerning the human Condition—Similarity of Essence and Inter-extensiveness of Change—are the basis for the inseparable connection between Acceptance and Altruism. But, as I have said, these Truths are only *potentially* recognizable by people. For there are "blocks" to their being grasped; blocks that may exist on each of the three levels of Being that I have mentioned:

(a) On the meta-conscious level, an individual may be blocked from grasping these Truths by his human *capacity to fanaticize.* It is all too true that men are capable, for example, of looking from close range at other concrete, complex, subjective, living human beings, and seeing before them nothing but an abstraction. A total, complex, concrete, living human being who happens to be of negroid racial character, is seen as nothing more than the abstraction "nigger". A concrete, total, complex, living human being who happens by virtue of his spatial locus on the globe to be an "enemy" during some War, [fol. 142] is seen as nothing more than the abstraction "yankee", or "limey", or "gook", or "nippo", or whatever the case may be. The ability to fanaticize is the ability to totally "objectify" something that is actually subjective in nature. Without this human capacity, no violence would be possible without *some* degree of Self-castigation. And the presence of such fanaticism in an individual always severly limits his ability to grasp the fullness of the two Truths discussed.

(b) On the emotional level, an individual may be blocked from grasping these Truths by the presence of certain kinds of "emotional response" habits that can become "etched" into the personality through the interplay of Choice, Environmental Influence, and Repitition. Among these are the passions of anger, hatred, fear, violence, and

other "pure and undefiled" forms of emotional Self-Assertion which seem to be capable of moving from the more natural "particular-emotional-response-to-a-given-situation" plane to the more unnatural "general-emotional-characteristic" plane. When such emotional responses undergo this kind of development, they often come to assure a kind of conative hegemony over the personality, which can severly limit it in many ways, especially with regard to any kind of recognition of the Truths involved here.

(c) On the cognitive level, an individual may be blocked from grasping these Truths by the presence of certain kinds of cognitive illusions and delusions that exist as opinions and beliefs, but which are not consistant with the Reality they attempt to describe. These include theories of human nature (i.e.—"Oh, let's face it, people are always essentially agressive and competitive", etc.) which either directly or indirectly distort the human Reality.

Unfortunately, these kinds of "blocks to Truth" are usually inculcated upon the individual at the very period of his Life during which he is most susceptible to falsehood and distortion: his childhood and youth. Neverthe- [fol. 143] less, they can be dispelled, though only at the cost of much active effort and Will; and often of much pain. The position of Acceptance is psychically co-existant with Brotherliness and Altruism only when these blocks have been for the most part dispelled, for this connection is directly dependent on the ability to grasp these Truths. Empathy: the power of projecting oneself into the subjectivity of another entity, is limited to a scope that is only as wide as the individual's ability to see concretely, and "seeing concretely" means nothing else than possessing a full grasp of these Truths. This is especially true at the human level, the "level" nearest to us; as our closest existential Similarity is with other human beings, and as Social Immersion is the most obvious and recognizable form of World-Immersion.

The psychical catalyst which brings about this marriage is empathy. Once given such a fully developed capacity for empathy, Acceptance becomes subjectively in-

separable from Brotherliness and Altruism. For it is impossible to Affirm the Blessedness of our own Being without simultaneously Affirming the Blessedness of all such Being with which empathy is possible; and it is impossible to wish for the Good for ones own subjective Self without simultaneously wishing for the Good for all such Selves. And conversely, it is impossible under these conditions to become lax in ones Other-Affirmation and Other-concern without simultaneously affecting ones Self-Affirmation and Self-concern in the same way.

On the meta-conscious level, Acceptance in such an individual can only exist in conjunction with the kind of Self-Assertion-Self Transcendence Synthesis which is involved in what is called by the name of "compassion": that particular kind of fellow-feeling that is "accompanied by the desire to help". Compassion is the logical result, on this level, of a fully-developed capacity, for empathy, a full grasp of those two Truths, and the psychical position of Acceptance.

On the emotional level, Acceptance in such an individual can only exist in conjunction with the general emotional fellow-feeling that is called by the name of "sym- [fol. 144] pathy"—sympathy, that is, in its extended meaning of "I rejoice for your joys *as well as* weep for your sorrows." Such is the result of the projection of the emotional aspects of Acceptance into others. That sympathy is basically an emotion can be attested to by all those who have ever felt it. In such an individual, all contradictory emotions—such as hate, anger, etc.—exist only as momentary "responses" brought about in him by Events; as momentary and transitory deviations from the general emotional norm.

On the cognitive level, Acceptance in such an individual can only exist in conjunction with attitudes that can best be summarized as a "benevolent humanism". Any other attitudes would be blatant contradictions.

These three conative characteristics—compassion, sympathy, and benevolent humanism—are the logical results of a marriage between Acceptance and Truth. Taken together, they comprize a subjective description and definition of the term "Brotherliness". The natural be-

havioral results of this Brotherliness is Altruism; and this Altruism is the kind that places "Life" and the Givens of Existance far above any other value—social or personal. It is therefore the kind of Altruism that is vitally concerned with the Upholding of the value of these Givens in the midst of a Civilization that denies them. It is the kind of Altruism that cannot willingly sacrifice "Life"—in others and in oneself—for *any lesser value*; and all values are lesser. It is the kind of creative Altruism that is implied in Schweitzer's term "Reverence for Life".

(3) *Acceptance and Love*—I would like to briefly attempt to make explicit, however, a destinction that I have already suggested; one that I feel to be important to the understanding of the above concepts. I wish to destinguish between Brotherliness and Love.

Brotherliness is based on the universality of the human [fol. 145] Condition. Our Brotherly feelings apply to all people equally, as all are in "the same fix" as far as these human Conditions are concerned. In the Brotherly feelings, we feel an existential Relatedness to all human beings, which causes us to feel committed to being actively concerned, as far as we are able, for the Welfare of each and all. Brothers are, and therefore feel themselves to be, "each others keepers", even when they don't like each other, and they often don't. To Accept Life and to reject Brotherliness is to deny the Truth of the facts of Basic Similarity and Inter-extensiveness of Change. It is to deny that aspect of Life that is Universal in human beings.

To assert "Love" for all people equally, on the other hand, is to deny that aspect of Life that is particular. It is to deny the Differences that people are capable of developing, by means of the interplay of their Freedom and their Environment, out of the Universality that they all share. It is to deny that two of these Brothers can turn out to be as different as Gandhi and John Kaspar. For Love has a different basis and is indeed a different quality of feeling—in spite of the inanities of Fromm—from Brotherliness. Love is a recognition not of the Universal Similarity of all, but of the Particular Similarity of two.

Love is a state of Being that one "falls into", not with anyone and everyone, but with only a certain few. Unlike Brotherliness, it has a very definite exclusive aspect. Exactly what the "criteria" are that cause an individual to "fall in Love with" another individual, no one really knows. Nor does anyone really know just what it is that brings about those strange and unique emotional and meta-conscious characteristics that are associated with "being in Love".

When one is in Love with someone, he or she feels certain things toward the beloved "in spite of oneself" that have no reasonable compliment in the Brotherly feelings. One feels a constant desire to be with the beloved, to listen to the beloved, to share ones Life with the beloved; etc. ad nauseum. It is a "grave" error indeed to attempt to base human Solidarity on Love; people who try are [fol. 146] constantly being ridiculed, and perhaps rightfully so. I remember a conversation I had once with a woman who insisted that she was "filled with Love" for all Mankind. And so I pointed to one of Mankinds Representatives who happened to walk by at that moment, a certain parasitic and malignant misanthrope whom we both knew. I asked her, in detail, whether she really felt the same thing, qualitatively speaking, towards him that she felt for her then recently-acquired husband. It turned out that what she really felt for this fellow was compassion, sympathy, understanding, pity, concern, and The-Best-Wishes-For-A-Successful-Life-Only-May-He-Stay-As-Far-Away-From-Me-As-Possible; which was quite different, believe me, from what she next claimed to feel for her husband. If she "Loved" that fellow, then what was it that she felt for her husband? No, what she felt for that man was a highly developed Brotherly Concern, not Love.

People turn out to be different; but, no matter how disrupting some of these differences may seem to be, they are still Brothers, who "all grew up in the same Family". Brothers can have many reactions to each other; they can feel Love, Like, Dislike, or even Hate sometimes. But they must never stop being actively concerned with each others Welfare, else they will find themselves bearing

the Mark of Cain: Spiritual Isolation. Brotherliness exists above and beyond the human Differences.

But as for Love; it is better to leave it be; it has its place. It is Brotherliness that is inseparable from Acceptance, not Love. Ivan could Love someone also, and there's no use denying it; no matter what aesthetic values there seem to be in theories which equate these.

(4) *Acceptance and Progress*—As the psychic position of Acceptance entails Brotherliness and an active concern for human Welfare, does it also require a belief in Progress? that is, as far as human relations are concerned? Does an Acceptor necessarily have to think of the history of civilization—past, present, and future—as a slow but [fol. 147] steady advancement of Human Solidarity?

I believe that he does not. The history of Human Solidarity has had its major and minor ups and downs, and is likely to continue in this manner as long as human Life exists. Civilization is a complex and ever-changing dynamics of human relationships that constantly produces new problems arising out of new social conditions. "Progress" can be thought of in terms that are entirely relative to particular conditions, especially when ones "concern for Life" is a concern for *actual* Life in concrete *living* individuals.

To consider a brief and somewhat crudely presented example: "Along with the change from Rural-predominate to Urban-predominate Culture that took place in the U.S. over the past 200 years, there was a concurrent change from Consanguineal family patterns to Conjugal family patterns. This process tended to leave a "gap" in the matter o. the Care for the aged; for the old Consanguineal traditions of the Care for the aged by their progeny slowly was felt to be more and more incompatible with the developing Conjugal ideals. Meanwhile, an adequate and widely-organized system of Old Age Centers was not being made available."

Such a widely-organized system might well represent, in this case, human "Progress." But it can readily be seen how Progress in this case does not represent an absolute adancement, but only a "catching-up" with changing conditions. If Old Age Centers are Progress, they

are Progress only relative to certain conditions, and would be useless under other conditions. And indeed, this kind of Progress has been the admirable achievement of all the most conscientious men of history: what they did was not so much a matter of stimulating men as it was of constantly *re*-stimulating them. . . .

Acceptance is not synonymous with Grinning Optimism. Alexy and Zossima and Schweitzer and Chekhov and Tolstoi and Gandhi and all the others, wellknown and obscure, did not have to believe in the inevitability of a New Jerusalem in order to go on. They merely had to feel the Gift of Life as being in itself a Blessing. Once [fol. 148] at this position, it was possible for them to relate to their milieu as they did—with an eye to always working to protect concrete human existance from those social and personal conditions that they saw to be detrimental to it. For Progress to them meant particular Progress for particular people. And no ever-continuing birth of new set-backs could make their task seem unworthwhile to them; for if Life was worth living, then it was also worth Upholding.

(5) *Acceptance and Ethics*—And yet all these considerations by no means simplify the Human Problem of Action: Ethics. What is Ethics? That is to say; what is Ethics from a subjective point of view, how does the Problem of Ethics present itself to the human beings who are faced with it? I will limit myself to a few points:

-Ethics presents itself as a continual need that people feel for making "Right vs Wrong" decisions in connection with the choices with which they are constantly being faced. That is the concrete aspect of the subjective problem of Ethics.

-Ethics also entails the continuous quest to *choose* general criteria, which are meaningful to each individual involved, and upon which he can attempt to base his particular decisions. That is the general and abstract aspect of the subjective problem of Ethics.

-Ethics is not, as it may appear to be to dogmatist, an absolute science of Right and Wrong. Each Ethical decision that a person may make for a particular problem

that confronts him grows out of that particular problem, and is valid for that particular situation only. For no two problems that confront an individual are exactly alike. Ethical decisions must be based on all relevant aspects of the situation involved, and most situations come complete with a fairly complex set of "extenuating circumstances". For an Ethical decision to be valid, it must be based on *all* the factors involved; otherwise it would have been made on the basis of a different prob- [fol. 149] lem than that which is actually there. And as no human being can ever possibly know *all* the extenuating circumstances of his situation, or *all* the results of his decision, each choice must be made with a sense of responsibility, and hope. Actions that are felt to be "wrong" in some situations may be felt to be "right" in others; for "wrong" means "wrong, I think, for me here and now", and "right" means "right, I think, for me here and now". Sometimes such decisions will seem more-or-less clear and obvious to the individual, and other times they will seem more difficult. Sometimes they will seem impossible altogether.

-But the most important aspect of the subject problem of Ethics is the general and abstract one: what are the criteria an individual shall adopt on the basis of which he will try to make his particular ascriptions of "right" and "wrong" in his particular siltuations? That such ascriptions are often difficult to make and sometimes impossible is only to admit the human Fallability and the Complexity of Events. But what criteria does he *wish* to approach in his decisions; what general principles does he *try* to apply? Without such firmly accepted general "Goals for behavior" the whole subjective problem of Ethics would have no meaning.

-These Goals are "relative" only in the sense that each individual must choose them out of his own personal fundamental beliefs. They are "absolute", however, in that each individual finds his own chosen Goals, because of the respect that he has for them, to be fully binding on his conscience. They are also "absolute" in the sense that any choice an individual makes for himself is also implicitly made for the whole World.

-The general Goals for behavior that are the basis for my Ethical decisions have come to be nothing more than my growing desire to Affirm and Uphold that which is basic and Given in Life, stemming directly from my psychic position of Acceptance. Indeed, I cannot imagine such Goals to come from anything else. This general criteria for action presents itself to me simply as some-[fol. 150] thing like: "I really should always try to do, as far as is possible for me, that which is conducive for the well-being of human Existance in its concrete forms; and at the same time I should always oppose the doing of that which I feel to be detrimental . . . . . etc." Or, to put it more succinctly, my general Goal for behavior is, in schweitzer's terminology, "Reverence for Life."

-Thus Ethics, for all its immersion in subjectivity, is still directly dependent on religion, as those general Goals for behavior that are always the basis for an individual's particular Ethical decisions, are always rooted in those fundamental attitudes to Life that constitute his real religion.

7.

To have fundamental attitudes towards Life means also to have fundamental attitudes towards its opposite, towards Death. If by "Life" we mean a basic set of existential Conditions, then by "Death" we must think of the loss of those Conditions. If the Givens of Life, if the fact of ones aliveness, is Affirmed as being Blessed and Good, then Death must seem a tragedy. This is a platitude? Maybe so, but all the same its *the* feeling upon which my Conscientious Objection is based.

Death is not only the loss of those aspects of human Existence that are Man-made—that is, the Forms of ones particular civilization; but also of those aspects of human Existence that are Given—sight, sound, smell, touch, reason, talent, consciousness, etc. Everyone may "know" this, but how many actually *feel* it? Surely not those who torment, not those who kill!

It may be true that the body "continues to exist", in a sense, after Death; as the process that we call Decomposition is only the beginning of an infinitely long

Movement that mingles each man's body with all the other matter in the Universe. And it may be true that some non-physical "something", that may be a part of the total living person, may also continue to have some sort of "existance" after Death. But all these possibilities are no consolation whatever, humanly speaking. For the "I" [fol. 151] the Self-conscious Self, which is the center of the human being, is the result of that mysterious and wonderful Unity that is the living person. Whatever it is that "happens after Death"—and all these things must remain Speculation—it is quite clear that this unique Totality that is the living person, ends with Death. Is Life "Good"? Is the fact of the "I" Being, a Blessing? Then Death is a tragedy. Are all people, no matter what their differences, tied to the same Conditions of Life? Then Death is a tragedy for all.

And yet the fact of Death as a natural Inevitability must come to seem an acceptable tragedy, even for those who love Life most dearly; for without Mortality there could be no Life. The fact of Mortality is an integral component of the fact of the qualitatively transitory character of human Existance. Without Death there could be no Birth, no Change, no source of that "vital energy" that lies at the center of Man's Will, that brings in the "dynamic element" of Being. The fact of Mortality creates *the* human Problem: "What are we to do with ourselves in this short Life?"—without which Life would not be what it is, but something else. Accepting Life involves a resignation to the Inevitability and Elementality of Death.

But this sort of resignation is quite another thing from the acceptance of the willful killing of human beings by other human beings. For though Death as an Inevitability is an elemental aspect of the very "Life" that one Accepts, Dying as an Actuality is always a tragedy. And Dying as an unnatural Actuality at the hands of other men is a double tragedy; as the very transitoriness of Life "in general" makes every actual moment of living, to one who Accepts, a blessing. Willfull killing presupposes the Rejection of Life—the Rejection of Someone's Life for purposes that are sup-

posedly greater than that Life itself. And there are no such purposes. Every killing is a Fratricide, and every Fratricide is a psychical suicide. If there are purposes that are greater than one Brother's Life, then there are purposes that are greater than ones own Life. And how [fol. 152] can one psychically Affirm the basic Blessedness of the Gift of Life and still feel that there are human purposes that are greater?

And so "Reverence for Life", in this sense, is one of the most fundamental components of my conscience. It means that I must see every person as a concrete, subjective living human being. It means that every person's Life is important and worthy of "special" consideration.

8.

And yet I am "opposed to Evil". Just how am I "opposed" to Evil? The word "Evil can have only one meaningful definition in this context: concrete harm done *to* people *by* people. But if this is so, isn't being "opposed" to Evil tantamount to being opposed to Evil-doers? How can I justify the separation of Evil from those who do it?

Unfortunately, things are not so simple. To divide the World into "good guys" and "bad guys" certainly simplifies matters, but it also misses the essential quality of the problem of Evil. I believe that it was Bernadotte who once defined Sin as "loving Evil". Not "doing Evil", but "loving Evil". this was an extraordinarily perceptive idea, for it recognized one of the most ironocal and distressing aspects of the Problem of Evil: that most Evil-doers do not love Evil. Most Evil-doers are not "bad guys", of a different breed than ordinary people; they are none other than those very ordinary people themselves. Then why do they do Evil; why do they harm others? Because they are able to rationalize their actions as being "right". Because they do not recognize the essential interrelationships and interdependencies of all people. Because they can be brought to abstractify concrete individuals. Because their harmful actions are supported by the Forms and dynamics of their social

structure, and by the sincere opinions of all the people whom they respect and love. Because they are socialized to violence and hostility and destructiveness and Isolation by the accumulative effect of a seemingly ubiquitous conglomeration of mass-stimulants. Because most people [fol. 153] simply do not seem to have the strength and/or ability to look upon that vast, mysterious social fabric that surrounds them "from without". Because most people accept the particular state of their civilization as being something that is just as Given and Unchangable as Existance itself. Because when that civilization requires, structures, and supports certain forms of Evil, most people tend to accept these forms simply and unquestioningly—"Ya' can't do nuthin' about it." The problem of Evil is not one that is limited to some people; Evil exists as a highly-supported Potential in all people. How many people can honestly say that if they had grown up in Germany instead of wherever they did that they would have stood up to oppose Nazism?

What shall we do about Sinners; about Evil-lovers? That question is a difficult one, but not half as difficult as the question of what to do about Evil-doers who do not love Evil; especially when their Evil happens to be directed upon us, and upon those whom we love. Shall we kill them? That is the easy answer, the "obvious" answer, the answer that people have repeatedly chosen for centuries.

But the history of bloodshed—especially that of the recent past—has clearly demonstrated that violence is a poor answer to Evil. Violence increases in geometric proportions the actual amount of Evil done. It makes its proponents guilty of the same distorted and dégrading attitudes towards Man and Life as their enemies, as those too for the most part are killing only for "the benefit of Mankind". It stimulates people to further Agressiveness, Hostility, and Spiritual Isolation; which in turn increases their general susceptability to the very manner of forces that influenced them to harm each other in the first place. It lays the moral and intellectual foundations for further Evil. It is literally true that use of violence to combat can (if successful) defeat an Evil-doing enemy

while at the same time appreciably increasing the gen-
[fol. 154] eral Potential for Evil in Mankind as a whole.

No, Evil is violence and violence is Evil; and one cannot oppose Evil by doing Evil. Then how can one oppose Evil? By making overt the very attitudes, feelings, and emotions that are connected with the religious position of Acceptance, Brotherliness, and Altruism. By making examples of ourselves by our own refusal to commit or condone the prevalent socially-patterned Evils. By behaving in accordance with the religious attitude of "Reverence for Life" as far as possible. By contuous thinking about the problems involved. By the development of our knowledge of Non-violent Resistance as an active force.

Sorokin, the Harvard Sociologist, in connection with "an unselfish, creative love in man" (by which he means what I have called by the names of Brotherliness and Altruism) writes:

> "The studies of the Harvard Research Center in Creative Altruism show that none of the prevalent prescriptions against international and civil wars and other forms of interhuman bloody strife can eliminate or notably decrease these conflicts. By these popular prescriptions I mean, first, elimination of wars and strife by political changes, especially by democratic political transformations. Tomorrow the whole world could become democratic, and yet wars and bloody strife would not be eliminated because democracies happen to be no less belligerent and strife-infected than autocracies. Still less pacification can be expected from autocracies. Neither the United Nations nor the World Government can give a lasting internal and international peace if the establishment of these bodies is not reinforced by notable altruization of persons, groups, institutions, and culture.
>
> The same goes for education in its present form as a panacea against war and bloody strife. Tomorrow al growm-up persons in the world could become Ph.D.'s, and yet this enormous progress in education

would not eliminate wars and bloody conflicts. Since the tenth century to the present century education has made enormous progress—the number of schools of all kinds, the per cent of literacy, the number of scientific discoveries and inventions have greatly and almost systematically increased, and yet the international wars, the bloody revolutions, and the grave forms of crime have not decreased. On the contrary, in the most scientific and most educated twentieth century they have reached an unrivaled height and made this century the bloodiest among all the preceeding twenty-five centuries of Greaco-Roman and European history.

The same goes for religious changes if by religion is meant a purely ideological belief in God or in the credo of any of the great religions. One of the evidencies for that is given by our investigation of seventy-three Boston converts "brought to Jesus" by two popular evangelical preachers. Of these seventy-three converts only one changed his overt behavior in an altruistic direction after his conversion. Thirty-seven other converts slightly changed their speech reactions; after their conversion they began to repeat [fol. 155] more frequently the words, "Our Lord Jesus Christ" and similar utterances, but their overt behavior did not change tangibly. The remaining converts changed neither their actions nor their speech-reactions. If by religious revival and "moral rearmament" are meant this sort of ideological and speech-reactional transformation, it would not bring peace or decrease interhuman strife, because it represents mainly a cheap self-gratification for psychoneurotics and sham-religious persons.

The same goes for Comminist, Socialist, or Capitalist economic remedies: for scientific, artistic, legal, or other ways of establishing and maintaining lasting peace in the human universe when these are not backed by increased alturization of persons anf groups. Without a notable increase of unselfish, creative love (as ideally formulated in the Sermon on the Mount) in overt behavior, in overindividual and in-

tergroup relationships, in social institutions and culture, there is no chance for a lasting peace and for interhuman harmony, internal or external.

Our studies show also that this unselfish, creative love, about which we still know very little, potentially represents a tremendous power. (a) it can stop agressive interindividual and intergroup attacks; (b) it can transfor inimical relationships into amicable ones; (c) love begets love, and hate generates hate; (d) love can tangeably influence international policy and pacify international conflicts. In addition to these effects an unselfish and wise (adequate) love manifests itself (e) as a life-giving force, necessary for physical, mental, and moral health; (f) altruistic persons live longer than egostic individuals; (g) children deprived of love tend to become morally and socially defective; (h) love is a powerful antidote against criminal, morbid, and suicidal tendencies, against hate, fear, and psychoneurosis; (i) love performs important cognitive and aesthetic functions; (j) it is the loftiest and most effective educational force for enlightenment and moral ennoblement of humanity; (k) it is the heart and soul of freedom and of all main moral and religious values; (l) its minimum is absolutely necessary for the durable existance of any society, and especially, for a harmonious social order and creative progress; (m) finally, at the present catastrophic moment of human history an increased "production, accumulation, and circulation of love-energy," or a notable altruization of persons and groups, institutions and culture, especially an extension of unselfish love of everyone for everyone in mankind, is a necessary condition for the prevention of new wars and for the alleviation of enormously increased interindividual and intergroup strife.

With a notable increase of our knowledge of love, its potentialities can be used for the service of mankind in immeasurably greater proportions."

As every Conscientious Objector knows, all this is far easier to talk about than to translate into action. There

are hundreds of "Yes, but suppose such and such a situation were to face you . . . .", questions that are impossible to answer easily. But given the religious and ethical attitudes involved, there are some situations in which only one attitude is possible. One of these is War.

War cannot possibly be condoned, given these attitudes, because of the accumulative effect of its many aspects:

[fol. 156] (1) War is characterized by its violent destructiveness. Hundreds of thousands of men, women, and children are maimed and killed; whole cities are destroyed; all the creative energy, all the money and time, that could and should go into the effort to relieve poverty and combat disease, is channeled instead into destructiveness.

(2) Countless thousands of its victims are "innocent" in *any* sense of the word, representing "statistical" sacrifices that are considered a means to an end.

(3) War establishes and auguments that moral, intellectual, and emotional "atmosphere" in which further violenc and bloodshed will ultimately breed. It brings men further away psychically, emotionally and intellectually from a full realization of the essentially Brotherly quality of human Existance; which full realization would be the only real antibody of Evil.

(4) The popular equating of "aggressive" and "defensive" armies with "bad" and "good" is invalid on the subjective level, on the human level. All soldiers, with a few exceptions that exist on both sides, are fighting for the same reasons, basically; because they have been brought and taught to be willing to kill for what they have been told is Mankinds benefit. The destructiveness and "Sinfulness" of an "ism" on the social level cannot be translated into the same kind of guilt on the individual level; and that is precisely the level on which the maiming and killing takes place.

(5) Armies require an individual to turn over the moral responsibility for his actions to professional soldiers. And this during the very kinds of situations in which Ethical decisions are so important for each individual involved.

(6) The special dangers to Mankind due to contemporary technological conditions would make War unfeasable under *any* circumstances, and from the point of view of *any* attitudes that are at all sane and reasonable.

And so on. No; the translating of these religious attitudes of mine into concrete decisions in concrete situations will not be an easy one because of my human [fol. 157] fallibility, because of the complexity of the human problem of Ethics, because of the nature of some of the problems that people are faced with. But on this one matter I believe I can stand fast, even at this early stage of my development.

* * * *

But I had better end here, before I wander too far away from my origional purpose. I have tried to show, in the only terms that are meaningful to me, how my Conscientious Objection is rooted in "religion". And if someone were still not convinced of that, after all this? Then all I can say is that all this, whatever it is, springs from the same Source as religion, answers the same fundamental questions as religion, and produces attitudes that seem to be as binding on the conscience as religion. After that, its all a matter of labels.

[fol. 158] IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT'S EXHIBIT NO. 33

Selective Service System
LOCAL BOARD NO. 17
321 West 44th Street
New York 36, N. Y.
(Local Board Stamp)

SUMMARY OF HEARING

At a hearing held on December 9, 1958 before a Member or Members of this Local Board, the registrant JAKOBSON, Arno S., 50-17-35-417 submitted the following new information. Seeks 1AO as conscientious objector at hearing changed request to IO.

The registrant's views are essentially a socialogical or phylosophical view is at most a merely personal moral case. The registrant's beliefs in relation to a supreme being are not based on religious training & belief. His views do not reflect duties as dictated by a supreme being superior to those arising from any human relation. This is illustrated by fact that if he saw another human [fol. 159] about to be injured he would feel impelled to prevent such injury by all means short of violence. However if violence became necessary he, in turn, would use violence; but only to limited extent necessary to restrain the assailant or protect victim. He distinguishes between that need and the situation of wars, saying individual relationship is not comparable to that of himself as part of army as opposed to enemy army because even among enemy there are those who participate in act of aggression & violence as their will. He also feels as part of

all army situations may arise compelling him to disobey orders e.g.—not treating or helping enemy soldiers.
[fol. 160] On basis of statements in file, Board feels he is available for non-combatant military service & he is classified 1AO.

[Handwritten]

[fol. 161] IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

[SEAL]

GOVERNMENT'S EXHIBIT NO. 35

SELECTIVE SERVICE SYSTEM

Selective Service System
LOCAL BOARD NO. 17
321 West 44th Street
New York 36, N. Y.
(Local Board Stamp)

In reply, refer to:

Re: ARNO JAKOBSON # 50 17 35 417

The appellant appeared before the Board for the purpose of pressing his claim for a 1AO classification. At the hearing he explained that since requesting that classification, he had determined in his own mind that he could not in good conscience serve even under a 1AO because a situation might arise where drugs were available to treat only our men, and he would be ordered to limit them accordingly. He would refuse to deny treatment to the enemy.

He was questioned at great length upon his beliefs. The members of the Board were satisfied that he was honestly and properly a case for 1AO. They did however reject the claim of 1O. The registrant accordingly appeals.

The undersigned was present at the hearing. The position of the Board is summarized in the following finding of the chairman:

"The registrant's views are essentially sociological or phyloscphical or at most a purely personal moral code. The registrant's beliefs in relation to a Supreme Being are not based upon religious training and belief. His views do not reflect duties as dictated by a Supreme being superior to those arising from any human relation. This is illustrated by the fact that if he saw another human being about to be injured, he would feel impelled to pre-

vent such injury by all means short of violence. However if violence became necessary he in turn would use violence; but only to limited extent necessary to restrain the assailant or protect the victim.

He distinguishes between that view and wars, saying the individual relationship is not comparable to that of himself as part of an army opposed to the enemy army, because even among the enemy there are those who participate in the act of aggression and violence against their will. He also feels that as a part of our army, situations might arise compelling him to disobey orders—e.g. not helping or treating enemy soldiers.

On the basis of all the statements in the file, the Board feels he is available for non-combatant military service and he is classified 1AO."

Respectfully submitted,

/s/ Fred S. Weitzner
FRED S. WEITZNER GAA

To the Board:

WHY HAVEN'T WE A COMPETENT STENOGRAPHER IN EVERY INSTALLATION? FSW

[fol. 162] IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT'S EXHIBIT No. 40

[SEAL]

UNITED STATES DEPARTMENT OF JUSTICE
Washington, D. C.

Address Reply to the
Division Indicated
and Refer to Initials and Number

March 16, 1960

Chairman, Appeal Board, Southern
District of New York, Panel #2
Selective Service System
205 East 42d Street, Room 1100
New York 17, New York

Re: Arno Sascha Jakobson
Conscientious Objector

Dear Sir:

As required by section 6(j) of the Universal Military Training and Service Act, as amended, an inquiry was made by the Department of Justice in the captioned matter and an opportunity to be heard on his claim for exemption as a conscientious objector was given to the registrant by Mr. James H. Halpin, a Hearing Officer for the Department of Justice.

The information obtained from the inquiry and considered by the Department of Justice in arriving at its recommendation is contained in the Resume of the Inquiry attached hereto and made a part hereof.

Registrant was born in Berlin, Germany, on August 22, 1935. His parents are of the Jewish religion and the registrant although formerly of that religion is not active in any religion. He graduated from the High School of Music and Art in New York City in January 1953, rank-

ing 11 in a class of 167. He later attended the City College of the City of New York without graduating and also took courses at Columbia University. His SSS Form [fol. 163] 100 received by his local board in September 1953 made no claim of conscientious objection but claimed a physical disability consisting of a "back condition." His SSS Form 150 received by his local board in April 1958 claimed exemption from combatant but not noncombatant military training and service. His local board classified him I-A-O in December 1958 after a personal appearance by registrant before it and after the registrant had filed a letter with the Board stating that he wished to change his request for a I-A-O classification to a I-O classification. The registrant then appealed the I-A-O classification that the Board gave him.

Annexed hereto and made a part hereof is Exhibit 1 submitted to the Department of Justice in behalf of the registrant.

Registrant appeared before the Hearing Officer at 120 Broadway, New York City, on August 19, 1959 accompanied by a member of the faculty of the Department of Speech of the University of Massachusetts at Amherst, Massachusetts. The registrant told the Hearing Officer that he had no comment or criticism to make on the Resume of Inquiry furnished him with the Notice of Hearing; that in 1941 he came to the United States from Germany by way of Cuba and that he has since made his home in New York; that he is now a citizen of the United States, is single, has no dependents and does not contribute to the support of his parents; that the relations between the registrant and his parents are strained, principally because of the registrant's attitude toward military service, his father feeling that it is the registrant's duty to serve in the Armed Forces and regarding the registrant's unwillingness to do so as a dishonor to the family. The registrant stated that he was brought up in the Jewish religion but left that religion when he was 14 or 15 without interference from his family and that he has not since been affiliated with any religious organization although he has occasionally attended a Quaker meeting in the last two years. The registrant

[fol. 164] stated that he is not an atheist or agnostic and is probably a humanist. He said that he is presently employed as a clerk and mail boy in the Metropolitan Museum of Arts but plans to return to college and obtain an advance degree in sociology with the view of becoming a social worker.

The Hearing Officer reported that the registrant was vague as to the origin of his belief with respect to conscientious objection and he noted that it was on April 18, 1958, the date of the registrant's notification of selection for induction that the registrant wrote his local board stating "I believe I am a conscientious objector and for that reason request Form 150." He noted that the registrant again waited until his appearance before his local board on December 9, 1958 to change his claim from I-A-O to I-O and that the local board rejected the registrant's claim for the reason as stated in the memorandum of the meeting prepared by the local board; that the registrant's views are essentially sociological or philosophical or at most a purely personal moral code. The Hearing Officer reported that the registrant's answer to the Hearing Officer's questions threw no further light upon the registrant's religious training and beliefs; that the registrant's statement entitled "Religion" submitted to the Hearing Officer, Exhibit 1 hereto annexed, did not in his opinion deal with the registrant's religious training but was rather a discourse upon the registrant's concept of morality and conduct. The registrant told the Hearing Officer that he had delayed filing his SSS Form 150 because he had not given much consideration to his views on conscientious objection or thought them through until he had passed his physical examination and that until then he had "frankly hoped I would be 4-F."

[fol. 165] The Hearing Officer concluded that the registrant is not opposed to participation in combatant or noncombatant military training and service by reason of his religious training and belief; that his claim is based upon a personal moral code and that he is not sincere in his claim. He recommended that the appeal of the registrant based upon grounds of conscientious objection be not sustained.

The Department of Justice finds that the registrant's claim is not sustained. It, therefore, recommends that the registrant's claim be not sustained by your Board.

The Selective Service Cover Sheet in the above case is returned herewith.

Sincerely,

/s/ T. Oscar Smith
T. OSCAR SMITH
Chief, Conscientious-Objector Section

[fol. 166] IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT'S EXHIBIT No. 41

Resume of the Inquiry

Re: Arno Sascha Jakobson

Conscientious Objector

Registrant was born in Berlin, Germany, on August 22, 1935. His parents are of the Jewish religion and the registrant although formerly of that religion is not active in any religion.

The records of the High School of Music and Art in New York City, show that the registrant attended there from January 1949 until his graduation in January 1953, ranking 11 in a class of 167. A teacher in this school advised that the registrant was an outstanding student of excellent character and she believed he would be sincere in his conscientious objection. The records of City College of the City of New York, show that the registrant attended there from February 1953 to February 1956, leaving without graduating because of financial reasons. An instructor at City College recalled the registrant as idealistic and of good character and he believed he would be sincere in his claim. The records of Columbia University, New York City, show that the registrant took courses in Sociology there in the winter and spring sessions of 1957-1958.

A representative of the Metropolitan Museum of Art in New York City, advised that the registrant has worked there as a clerk in the office service department since May 3, 1956; that he is a loyal, quiet, efficient worker of good character and she believed him to be sincere in his claim. A supervisor of the registrant in the museum advised that the registrant is quiet and of good character; that he has not expressed his views on military service to her but that she believed him to be sincere in his conscientious objection. A representative of a real estate management company in New York City, advised that the

registrant has handled complaints of tenants at one of their properties on West 14th Street in New York City, where the registrant has lived for about nine months and that he is quiet and well behaved but he could not comment on the registrant's claim. The records of a camp organization in New York City, show that the registrant worked for that organization from July 25 to August 28, 1957. A representative of another camp organization in New York City, advised that the registrant worked for that organization during the summers of 1953, 1954 and [fol. 167] 1955, as a senior counselor and that his evaluation reflected that he was a satisfactory worker, friendly and sympathetic with campers. The records of the New York Public Library show that the registrant worked there as a page from March to June 1955. A resident of New York City, advised that the registrant had worked for him from time-to-time for several years doing odd jobs and that he was honest, industrious and of good character; that he had never expressed his views as to military service but he believed him to be sincere in his conscientious objection. A representative of a firm in New York City, advised that the registrant has worked there from January to March 1956; that he was a quiet, well behaved employee who had never mentioned his views on military service and she could not comment on his claim.

Neighbors in New York City, advised that they had known the registrant for many years; that he comes from a fine family, is of good character and never mentioned anything about military service but that he is honest and they believed him to be sincere in his claim. An apartment superintendent in the Bronx, advised that the registrant had lived there from November to April 1959, and was quiet and well behaved, kept to himself and did not associate with any of his neighbors; that he had never talked to the registrant about military service and could not comment on his claim. Neighbors of the registrant in the Bronz, advised that they did not feel qualified to comment on his claim. Neighbors of the registrant on 14th Street, New York City, advised that they did not feel qualified to comment on the registrant's claim.

A reference of the registrant who has known the registrant for about six years advised that the registrant has worked under his supervision at a summer camp in Pennsylvania, during the summer months from 1953 to 1955, and on several occasions had expressed the belief that war is wrong; that he believed registrant to be of a religious nature although not a member of a religious group; that he was a young man of integrity and good character and he believed he would be sincere in his conscientious objection. Another reference advised that he had formerly worked with the registrant in the Metropolitan Museum of Art in New York City, for about two years and that the registrant had originally expressed the opinion that he might not be opposed to noncombatant service but that in later discussions he had stated that after careful thought he had determined that he was [fol. 168] conscientiously opposed to any form of military service; that he believed registrant to be honest, of good character and sincere in his claim. A reference of the registrant advised that he had been a conscientious objector himself and was sure that the registrant was honest and sincere in expressing such belief; that he met the registrant five years ago at a summer camp which was a New York social agency camp and that the registrant had expressed conscientious-objector beliefs the first year he met him; that the registrant had then left the Jewish faith and had given serious thought to his personal moral code; that he had not affiliated with any church but had expressed the opinion that all religion should object to war and killing; that in the fall of 1958, the registrant came to his home in Massachusetts and told him that he was objecting to combatant and noncombatant military service as he felt that serving in noncombatant service would be only helping to do what he, himself, was unable to do; that the registrant was a soul-seeking individual, consistent in his thinking; that he was very considerate of others and had an interest in social work. He had no doubt but that the registrant is sincere in his conscientious objection.

Credited and criminal records were negative.

Prepared: July 10, 1959

[fol. 169] IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT'S EXHIBIT No. 42

Religion

Religion consists of a deeply-felt and consistant set of values, based on fundamental attitudes to existance, which are rooted so firmly in an individual's consciousness as to constitute in him a moral imperative of the kind known as "conscience".

Historically and functionally, the term Godness stands for ultimate meaning, ultimate explanation, and ultimate source of value, Godness has its roots as a conception in the efforts to men to understand their position in relation to the universe. It has its roots in their search for the answers to these ultimate questions, and in their intuitive recognition, resulting from this search, that the common world of appearance which we know through our senses is only one aspect of a vaster reality; a reality which in its totality transcends and includes this material world that we percieve. Each particular conception of Godness represents an attempt, necessarily imperfect, to give some kind of cognitive expression to this basic intuition. Thus Gandhi once expressed this in *his* terms according to *his* needs as follows:

> "There is an indefinable, mysterious power that pervades everything. I feel it, though I do not see it. It is this unseen power which makes itself felt and yet defies all proof, because it is so unlike all that I percieve through my senses. It transcends the senses. . . . Sense perceptions can be, and often are, false and deceptive, however real they may appear to us. Where there is realization outside the senses, it is infallible. It is proved not by extraneous evidence but in the transformed conduct and character of those who have felt the real presence of God within."

Though many of the prevalent conceptualizations of this intuition appear to contradict each other, they all have the same function, and thus the same meaning. That function is to give *some* expression, according to the particular needs of the particular individuals involved, to the spiritual depth attributable to all existance; as this depth is encountered through the search for ultimate meaning, ultimate explanation, and ultimate source of value. This intuition simply means that existance contains an extra dimension; a dimension which is unreachable by sensory perception or intellectual analyses, which is nevertheless somehow percieved directly by the core of a person, which is none the less real for its intangibility, and which is in fact primary and fundamental.

Words are symbols which are used in communication to point to meanings. When the meaning pointed to by a particular word-symbol is concrete and sense-defined— e.g. "tree", "green", etc.— there is no problem; but when that meaning is general or abstract or essentially non-material, then the symbols or organizations of symbols which are used are often necessarily ambiguous, vague, and analogous in nature. In these cases there can be many truths for one reality, as many organizations of symbols can point to one intuitively-grasped meaning. This is especially so in matters of religion. For this reason the particular organization of symbols with which we surround the meaning of Godness is not as important as the fact itself of the affirmation of the non material depth attributable to existance. The semantic problem in this area is so great, that I personally usually prefer not to attempt any sort of communication of these matters at all. I would under ordinary circumstances be completely satisfied with the statement at the top of the page as a full definition of religion.

I do not posit the assertions of theism, and yet I feel them to be a thousand times nearer the truth than common atheism.

I reject atheism, in the common sense of the word; as atheism is more than the rejection of the conceptual inadequacies of theisms. It is also the denial of the validity of the very quest—for ultimate meanings, ultimate values

—out of which the idea of Godness springs. It is a denial of the validity of looking for meaning "beyond" the daily-living level of human emphasis. Atheism denies more than conceptual inadequacies—it denies depth of outlook.

The expression "God is Love", if considered *entirely* metaphorically, has at least one advantage for me over other common expressions of spiritual meaning. This advantage is that it tends to point to a connection which I feel to exist between an awareness of the spiritual aspect of existence and values. For values are indeed more than [fol. 170]a freely-chosen moral code, apropos of nothing. They are indeed more than a set of "merely personal feelings". They certainly are these, but they are also more. They are harmony. They are in expression of the need to bring our lives into the closest harmony possible with the essense of the spiritual aspect of existance. They are an attempt by the Part to live in harmony with the Whole.

To act contrary to my values would be for me equivalent to cutting myself lose not only from my fellow-men but also from the entire spiritual universe.

Thus the expression "God is Love", for all its limitations, does succeed in pointing to an objective source of morality.

[fol. 171] IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT'S EXHIBIT NO. 45

re: appeal for 1-O classification of Arno Jakobson, 50 17 35 417

Dear sirs;

In the resume that I was sent of the findings of the Justice Department, the charges made to justify the unfavorable recommendation seem to be of two kinds: (1) that my convictions, upon which my claim is based, do not constitute religion, but consist rather of sociological, philosophical, or merely personal moral considerations; and (2) that my Selective Service history contains elements that led my hearing officer, Mr. Halpin, to conclude that I am not sincere in my request.

I don't know what I can write in this letter to convince you that Mr. Halpin's charges are unjust; but I must maintain (1) that I *am* sincere in my conscientious objection, and (2) that I continue to believe that my convictions have origins so deep and all-embracing in my being that they simply cannot be considered merely sociological, philosophical, or cerebrally moral. In my opinion they constitute an essentially religious position.

You already have on file many statements from me, both oral and written, concerning my convictions. I will limit myself in this letter to a brief statement as to why I feel them to be religious.

In my opinion, what makes this position a religious one is its all-embracing and transcendant character in my being. I do not hold these convictions because I have intellectually concluded that they are objectively a good position to take; I hold them because I find that I *must* live in harmony with my inner light. They do not represent a superficial outlook that I have cerebrally chosen; they represent a position that is grounded in the deepest layers of my consciousness. The commitments of this position are transcendant in that they represent to me an absolute moral imperative, and constitute what I feel

[fol. 172] to be my deepest obligations in life. I feel that I, like everyone else, have many obligations in many different directions: obligations to friends, to law, to society, to humanity. But I also feel that when these obligations from without conflict in their demands with my inner commitments, I have no choice but to choose in accordance with my deeper obligations and to take whatever consequences ensue.

They are also transcendant in another sense. To me, to live in harmony with the inner light is to experience reality on its deepest levels. For reality in its totality is greater than the world revealed to us by the senses, unaided by inner effort. Such an inner effort makes for an awareness of the world in its spiritual as well as physical dimentions. It is in this sense (and this sense alone) of a "deeper" or "ultimate" Reality that I can be said to believe in a Supreme Being, in which my values are grounded.

I claim these convictions to be essentially religious in nature because they stem from values which are: (1) deeply ingrained in my whole counsciousness; (2) all-embracing in nature; and (3) transcendant. They cannot be called mere sociology, philosophy, morality; or mere anything.

I never pretended to hold a complete "system" concerning these areas of inquiry (sociology, etc.). I have of course attempted to give a great deal of thought in the past two years to some of the questions in these areas which are immediately connected with a CO position, but I cannot even now claim that the results are perfect. I never claimed to have a perfect external basis for a CO position; I have always considered that its origin was internal, and religious. I can understand in part how a Selective Service official, perhaps feeling himself absolutely obligated to place a strict fundamentalist interpretation on the "religion clauses" with their monotheistic phraseologies, might be loath in his official capacity to [fol. 173] term my convictions "religion"; for they certainly do not represent strict fundamentalist monotheism. But even in such a case it seems to me that he would have to find a better phrase for them than "sociology,

philosophy, or mere personal morality", as they simply are not these.

I realize that these views are unorthodox. They are none the less sincere. I cannot help the unorthodoxy; I was brought up in an atmosphere which respected scepticism, free inquiry, and origional thinking; an atmosphere which I accepted and took to heart. I read widely from Plato to Gandhi, meditated consciously on many problems, and lived and experienced life for twenty-four years: that was my Religious Training. These convictions are the result.

According to the resume, it was felt by Mr. Halpin and the Justice Department that I am not sincere in my claim. Presumably this conclusion was reached on the basis of certain maladroit elements of my Selective Service history: that I did not claim conscientious objection on form 100, filled out when I was eighteen; that I claimed a back disability on that form; that I didn't make my first CO claim till the age of twenty-two, after the physical examination had found me 1-A in spite of the back condition that I claimed; that I then requested a 1-A-O classification; and that I officially changed my request (to 1-O) at the local board hearing a half year later. I would like to breifly summarize what I said to Mr. Halpin about these elements of my SS history.

(1) One reason I gave for my tardiness is that I did not come from a pacifist background, and thus was forced to [fol. 174] face the problem by myself, "from scratch", when it arose. I continue to feel that the religious attitude to life which is at the basis of my position was part of my consciousness for a long time, long before this period. Yet I admittedly made little attempt to consistantly face the problem of compulsary military conscription until the Fact was practically staring me in the face. I cannot explain this except by calling it immaturity. As for the back condition, it was real. I believe that there is a note somewhere in the files from an orthopedic specialist giving the details. As I told Mr. Halpin, instead of facing up to my responsibility to form a well thought out

position with respect to the fact that military service would be a fundamental rejection of my values, I childishy hoped and led myself to believe that my back condition would suffice to make a difficult task unnecessary. I ephasized to Mr. Halpin, however, that bad as this was, my reasons for wanting to avoid induction were basically conscientious, stemming not from amoral desires on my part, but from my deepest values and convictions with respect to the sancity of human life.

(2) At the same time, all this time I was under the impression that the law as it stood did not qualify me for a CO position. My first inquiry as to the qualifications for CO classification was made about half a year prior to the physical, and at the local board office. At that time the clerk in attendance told me that it was a classification given only to individuals with a long and overtly-provable pacifist background: "letters from ministers are required" etc. I believed this. I did not make another inquiry until after the physical, this time at the offices of a pacifist organization. There I discovered that I had been misinformed by the clerk. It was not until I felt satisfied, upon some investigation, that my religious position, [fol. 175] though unorthodox, *did* qualify me under the law for a CO classification, that I first made my claim. Up to that point I thought that the government offered me no alternative to prison; I would not have made a legal claim if I did not feel legally qualified for it.

(3) It is true that my first claim was for a 1-A-O classification, in spite of the absolutist-like views that I expressed in the answers to the questionaire with which I made that request. One reason for this is that I felt guilty and somewhat confused at that time over the relative lack of intellectual support (sociological, philosophical, etc.) that I was able to give to this basically religious position that I knew I had to take. I felt that such a position, thought essentially religious and capable of standing on that basis alone, was one which had so many consequences on other levels of inquiry, that an individual taking it had a moral responsibility to hold a full and well-thought-out position on these levels. At that

time I felt I could fulfill only part of that requirement. This confusion, plus a little fear, made me feel at that point that I might be able to live with myself with a 1-A-O classification. I soon discovered that this was not so; that this represented a *basic* compromise. Therefore I resolved to change my request at the local board hearing which I was continually expecting to come up at any moment.

It seems to me that my Selective Service history is not a terribly unusual one for a CO who was not fortunate enough to have gone through a demonstrable pacifist childhood. I know it is common for such individuals to first face this decision, which for them is a difficult one, late in their Selective Service histories. Some do not make the decision until after they have been inducted. You must know of many such cases yourselves. I dare say that most of them are honest and sincer people. And [fol. 176] cannot similar awkward elements be found in the backgrounds of all of these? I do not wish to minimize the culpable immaturity involved in my particular case, but I must respectfully submit that human nature does not often demonstrate perfection in the respects involved.

I suppose it is up to me now to convince you that I *am* sincere. But what can I say? Sincerity is not a measureable quantity; I cannot give you objective proof for a subjective state.

Frankly I was a little bit shocked by this charge. I did not expect it. I did not expect that at this point my sincerity would suddenly be called into question. I had thought that Selective Service was satisfied on that score. The local board had evidently felt satisfied, and they had the very same facts as to my SS history before them. They had at least given me a 1-A-O classification; why would they have done this if they were not satisfied with my sincerity? The FBI report resume seemed to cast a favorable light in this respect. Why did Mr. Halpin feel that I was insincere? What did he see that led him to call my basic honesty into question in a situation upon which so much of my future may depend? Did he feel that my tardiness constituted an objective measure of dishonesty

and insincerity? Did he see something in my interviewee personality that he believed to be a sign of a dishonest person?

What else can I say? In the long run, all I can do is once again to make the assertion that I *am* sincere in my claim, and hope that you will find it in yourselves to believe me.

That is my reply to the resume I was sent.

Please be assured that I *will* refuse induction, and that [fol. 177] such a refusal *will* be conscientious in nature.

If you agree with me that I would serve my country better by doing Alternate Service than by sitting in prison; and if you find it in yourselves to believe me when I say that my claim is made sincerely; and if you feel that you can validly judge my convictions to be essentially religious ones, though perhaps unorthodoxly so; then won't you please reverse Mr. Halpin's and the Justice Department's recommendation, and sustain my appeal. Thank you.

Respectfully,

Arno Jakobson

[fol. 178] This communication is in reference to an appeal for 1-O classification by Arno Jakobson, # 50 17 35 414. It is a reply to a resume sent me by the appeal board. It is due on April 15.

I lost the address of the appeal board, for which I apologise. I also lost the number of the panel which is concerned with my case. Could it please be forwarded to the proper people in time?

Also please note that my address has changed. It is now:

Arno Jakobson
318 W. 14 St.
New York 14, N.Y.

The local board already has the new address. Thank you.

[fol. 179] GOVERNMENT'S EXHIBIT No. 47

Arno Jakobson
318 W. 14 St.
New York 14, N.Y.
SS # 50 17 35 417

General Lewis B. Hershey
National Director of Selective Service
Washington, D.C.

Dear General Hershey;

I am a conscientious objector, whose claim has been before Selective Service here in New York for the past two years. At the local board hearing, which took place about a year and a half ago, I was classified 1-A-O. As my request at that time was for a 1-O classification, I appealed. I have just received notice that the appeal board for my district has denied my appeal, and has reclassified me in 1-A, by a vote of 4 to 0.

I feel this result to be an unhappy and an unjust one. The local board had at least given me a 1-A-O classification, which made me feel that if nothing else they were at least satisfied with the sincerity and depth-of-origin of my claim. Moreover, I continue to feel that my convictions, which have been growing stronger and stronger these past few years, are essentially religious ones, though perhaps unorthodoxly so. My position with regard to conscientious objection stems from my deepest values and beliefs, ones that will always continue to play a dominant role in my life. Military service for me would represent a fundamental repudiation of these values and beliefs; I cannot thus compromise my deepest convictions and continue to live with integrity.

Though I am aware that I am not automatically entitle to it by regulation, I would like at this time to make to you this request for a further review of my claim on [fol. 180] the Presidential level. I feel very strongly that I could be of no use to myself, to my society, or to mankind in general, by sitting in prison. I am willing and anxious to do any kind of alternate service of a non-military character—hospital work, relief work, or any-

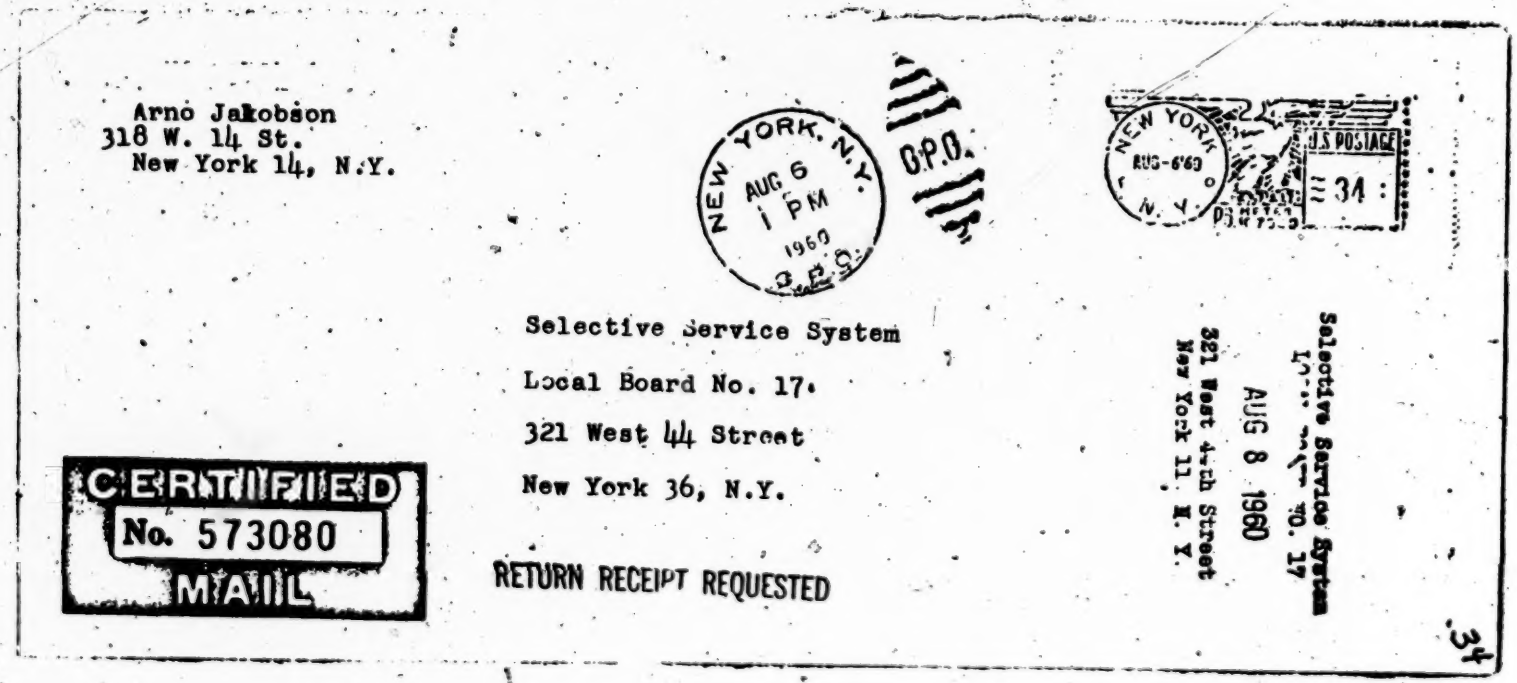
thing else—in any place and for any amount of time. Wouldn't it be possible for Selective Service to consider me to be useless as a prospective military entity? Is there no way that I could serve my society and mankind in a non-military manner that would represent a better alternative than a prison sentence?

If it is at all possible that I be granted a further review of my claim on the presidential level I would deeply appreciate it. Thank you.

Sincerely,

Arno Jakobson

[fol. 181]



Arno Jakobson
318 W. 14 St.
New York 14, N.Y.

NEW YORK, N.Y. AUG 6 1 PM 1960 P.O.S.

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NEW YORK AUG-6'60 N.Y. U.S. POSTAGE 34

Selective Service System
Local Board No. 17.
321 West 44th Street
New York 11 N.Y.

AUG 8 1960

Selective Service System
Local Board No. 17.
321 West 44 Street
New York 36, N.Y.

CERTIFIED
No. 573080
MAIL

RETURN RECEIPT REQUESTED

34

[fol. 182] IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT'S EXHIBIT No. 55

December 5, 1960

Arno Jakobson
318 w 14 st
New York 14, n. y.
#50 17 35 417

Selective Service System
Local Board No 17
321 W. 44 St
New York 36, N.Y.

To the members of the board:

I have received from you an order to report for induction at the Whitehall St center on Dec the 8th. Evidently, then, Selective Service has finally and fully denied me classification as a Conscientious Objector, the claim for which has been continuing for almost three years. I feel this to be a regretable result, as my position is one that *was* sincerely taken, and *is* religious in origen, legal definitions of religion notwithstanding.

The purpose of this letter is to attempt to forewarn you of what I plan to do: I will continue to comply with Selective Service regulations just as far as I possibly can. What this means is that I plan to go down to Whitehall St on the 8th and go through with the entire pre- induction process *short of taking the oath and accepting induction.* Beyond *this point I cannot and will not go. I will refuse to take the oath, and thus will refuse induction.*

I can only say that breaking the law in itself was certainly never my primary aim in taking this position, nor is it now. I am more sorry to be in this position than you must be to see me in it. I have stated several times my willingness and anxiousness to perform *any* kind of Alternate Service of a non-military nature, in *any* place and for *any* amount of time.

But there exists an inner voice, which speaks of love, and nonviolence, and compassion, and human understanding; a voice which when it speaks represents to me the highest law in the universe. Participation in war and in its preparation would represent to me a fundamental repudiation of this silent voice, a fundamental compromise of my deepest values; I cannot accept participation in military service in good conscience. Thus when I refuse on the 8th to accept induction into the armed forces I will be breaking a human law in order to obey what I feel to be a higher and deeper committment in life.

* * * * *

On the possibility that arrest might not take place at the induction center then and there, I would like to state for the record that I am willing to cooperate with any arresting officer that may be assigned to finding and arresting me by reporting for arrest at any time and place, if I am notified in advance. This procedure, if adopted, would save him the possible trouble of making an extensive search for me and not finding me home (I work nights now and am usually home during the day), when I may only be out shopping or taking a walk. My personal purpose in suggesting this is to attempt to avoid having my mother, who is elderly and not in the best of health, needlessly confronted with the arresting process itself, which would I feel be an unnecessary strain on her, though she is of course aware of the general nature of the situation I am in. I am really not very likely, moreover, to be over there visiting during the likely times of arrest. Thus, if it be agreeable to the individuals involved, I will be glad to report for arrest at the convenience of the officer, simply upon being notified in advance. This, however, would of course be up to those involved.

Respectfully,

Arno Jakobson

Anno Jakobson
~~318~~ 318 W 14 St.
New York 14, N.Y.

Selective Servic
LOCAL BOARD
DEC 6 1960
321 West 44th Stree
New York 17 N. Y

CERTIFIED
No. 129329
MAIL

Selective Service System
Local Board No. 17
321 W 44 St.
New York 36, N.Y.

RETURN RECEIPT REQUESTED

[fol. 184] SUPREME COURT OF THE UNITED STATES

No. ....., October Term, 1963

UNITED STATES, PETITIONER

v.

ARNO SASCHA JAKOBSON

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI—March 6, 1964

UPON CONSIDERATION of the application of counsel for petitioner,

IT IS ORDERED that the time for filing petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including March 24, 1964.

/s/ William J. Brennan, Jr.
WILLIAM J. BRENNAN, JR.
Associate Justice of the Supreme Court of the United States.

Dated this 6th
day of March, 1964.

[fol. 185] SUPREME COURT OF THE UNITED STATES

No. 937, October Term, 1963

UNITED STATES, PETITIONER

vs.

ARNO SASCHA JAKOBSON

ORDER ALLOWING CERTIORARI.—May 4, 1964.

The petition herein for a writ of certiorari to the United States Court of Appeals for the Second Circuit is granted, and the case is placed on the summary calendar.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1964 733491 1024